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CONTENTS FOR FEBRUARY

DEPARTMENTS

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THE LEAGUE'S BUSINESS

Committee Appointed to Prepare Model Special Assessments Law.—As announced on this page last month, the National Municipal League is forming a committee to prepare a recommended model state law regulating special assessments in local governments. Murray Seasongood, president, has asked the following to serve as members of this committee:

Carl H. Pforzheimer, New York, *chairman*
C. E. Rightor, Detroit Bureau of Governmental Research, *secretary*
F. Seymour Barr, Barr Bros. & Co., New York
Paul V. Betters, executive secretary, American Municipal Association, Chicago
Carl H. Chatters, International Association of Comptrollers and Accounting Officers, Detroit
Philip H. Cornick, Institute of Public Administration, New York
Welles A. Gray, Department of Finance, U. S. Chamber of Commerce
John S. Harris, Stranahan, Harris & Co., Toledo
Walter Matscheck, director, Civic Research Institute, Kansas City, Mo.
Herbert U. Nelson, secretary, National Association of Real Estate Boards, Chicago
Edward Nugent, city counsel, Elizabeth, N. J.
Lawson Purdy, New York
Clarence E. Ridley, executive secretary, International City Managers' Association, Chicago
Walter S. Schmidt, Frederick A. Schmidt Co., Cincinnati
Herbert D. Simpson, Institute for Research in Land Economics and Public Utilities, Chicago
Harold A. Stone, California Taxpayers Association, Los Angeles
Benjamin F. Taylor, Town Supervisor, Harrison, N. Y.
C. W. Tooke, School of Law, New York University

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More Honors for our Honorary Secretary.—Clinton Rogers Woodruff, honorary secretary of the National Municipal League, has been appointed Director of Public Welfare of Philadelphia by Mayor J. Hampton Moore. Mr. Woodruff served as chairman of the Registration Commission in Mayor Moore's first administration. Since that time he has been an assistant city solicitor. Mr. Woodruff has had a distinguished public career. From its formation in 1893 to 1920 he was secretary of the National Municipal League and editor of the NATIONAL MUNICIPAL REVIEW and the National Municipal League Book Series. He also served for four years as president of the Civil Service Commission of Philadelphia, and, as a trustee of the Free Library, was chairman of the committee in charge of construction of the new main library building. He is prominent in welfare and church work and is chairman of the Diocesan Social Service Department of the Episcopal Church. Among his other duties and connections he is a member of the board of directors of the Public Charities Association of Pennsylvania, of the Social Service Exchange, and the Church Mission of Help. For his work among the Roumanians during the World War he was decorated by the late King of Roumania.

Mr. Woodruff's friends in the National Municipal League, who include practically all of the membership, will be delighted to learn of this latest honor which has been conferred upon him.

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Civic Education by Radio.—The National Broadcasting Company, through the National Advisory Council on Radio in Education, has offered a half hour each week on a coast to coast hook-up for four years for broadcasting addresses on government and civics. This generous offer of broadcasting facilities was made by the Council to Thomas H. Reed, vice president of the National Municipal League, in his capacity as chairman of the Committee on Policy of the American Political Science Association. An advisory committee of fifteen has been created to coöperate with the Council in the preparation of a four-year program and funds are being raised to finance the undertaking. Murray Seasongood, president, has been appointed a member of the advisory committee representing the National Municipal League. Other members of the National Municipal League on the advisory committee are: Charles A. Beard, Joseph McGoldrick, Charles E. Merriam, Thomas H. Reed and Chester H. Rowell. This program has great possibilities and can scarcely fail to further the cause of better citizenship.

RUSSELL FORBES, *Secretary.*

Editorial Comment

February

NATIONAL MUNICIPAL REVIEW

Vol. XXI, No. 2 Total No. 188

With insufficient funds in the treasury to meet city and county salaries due on January 1, J. Hampton Moore was inaugurated on January 4 as the 112th mayor of Philadelphia. In opening the city council the president of that body refused to be downhearted, declaring that the delinquent taxes were "golden assets of accounts receivable."

In spite of the acute situation in the city treasury, Philadelphians anticipate a more satisfactory administration under Mayor Moore than they have enjoyed for the last two terms. Among some notable appointments was the selection of Clinton Rogers Woodruff to be director of public welfare.

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The fate of the New Jersey Ripper Legislation, which was determined by the State Court of Errors and Appeals recently, is ably discussed in the Judicial Decisions department of this issue by Spaulding Frazer of the New Jersey Bar. The decision treats of intricate points of law of interest to students of municipal government; and we commend the note as an example of one case where ripper legislation failed.

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Citizens' organizations are springing up in many cities and demanding material cuts in city budgets. In the Notes and Events department of this issue is a brief account of the Louisville Property Owners' Association, as well as a story of the Boston agitation for a complete reassessment of real estate. Philadelphia's city hall has been invaded by several thousand irate citizens, and the work of the Detroit Committee on City Finance, Lent D. Upson, secretary, is well known. The Trenton, New Jersey, commission contemplated a budget calling for a 20-point increase in the tax rate, but a citizens' mass meeting convinced them that this is not the time to talk heavier taxation. Experts retained by a taxpayers' group have pointed out possible savings totaling 10 per cent of the budget.

In other cities similar revolutions are occurring. The taxpayers are mad. There is no inclination to permit a further divergence of the property value curve and the tax curve. Wise political officials are coöperating with irate citizens. But not all city fathers are wise and the ugly mood of the taxpayers has called out abuse from the officials. Shrewd politics, irrespective of other considerations, call for conciliatory tactics rather than bad tempers on the part of our municipal governing authorities.

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Walter T. Arndt, former secretary of the Citizens' Union and a veteran re-

form leader of New York, died on December 24 from injuries received in an automobile accident. Mr. Arndt had a varied experience in journalism and public affairs. For a number of years he was assistant editor of the International Yearbook and served on the staff of the New International Encyclopedia and later on the Encyclopedia Britannica. For several years he was legislative correspondent and political editor of the *New York Evening Post*. In 1913 he began his career as secretary of various reform organizations. He also acted as secretary of the State Reorganization Committee of which Charles Evans Hughes was chairman and which drafted the consolidated administrative code of the state. Since leaving the Citizens' Union in 1928 Mr. Arndt was engaged in business but found time to act as secretary of the Committee of One Thousand now striving to clean up the municipal government of New York.

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Milwaukee's Enviable Financial Condition

In this issue the mayor of Milwaukee explains why his city deserves the national attention it is receiving for its favorable financial condition.

Mayor Hoan states that but 18 cents of the city property tax dollar in Milwaukee goes to debt service. Less than 23 per cent of the budget of the city council, according to the Citizens' Bureau of Milwaukee, will be devoted to this purpose in 1932. These figures are most commendable. However, it is only proper to add that the first payment of principal on the city's share ($17,319,912, December 31, 1931) of the metropolitan sewerage system will not be paid till 1933, at which time Milwaukee's debt charges as reflected in the county expenditures will mount rapidly. But in New York 42 cents goes to this purpose and 50 cents is not unusual in some cities. Those who have guided Milwaukee's destiny seem to have an old-fashioned hostility to debt. They have worked to put Milwaukee on an advanced pay-as-you-go basis, and have succeeded in a large measure. Through intelligent use of the city's cash and modern fiscal control the transition was accomplished without hardship to the taxpayer.

The city administration promptly discovered that because of loose budget practices operating deficits occurred each year which rolled up unhealthy floating debts. The first step, therefore, was to introduce a balanced budget and to enforce obedience to it. They also found that the city was borrowing (as the majority still do) for current expenses in anticipation of taxes not yet paid. By building up a reserve to carry the city from the beginning of the fiscal year to tax collection time they have eliminated the cost of tax anticipation loans. Borrowing on long-term bonds for recurring capital expenditures next attracted attention. Paying contractors by certificates bearing 6 per cent interest which were later funded into bonds was likewise revealed as a waste of public moneys. By putting the recurring expenses on a pay-as-you-go basis and by accumulating a revolving fund for the payment of contractors in cash when the improvement was eventually to be paid for from bonds, Mayor Hoan estimates that the city has been saved almost $400,000 annually in interest.

Centralized purchasing spells economy to the amount of $900,000 a year under the old decentralized system. (The Milwaukee purchasing bureau is one of the best in the United States.) Business-like investment in short-term government and municipal paper of surplus cash for which there is no im-

mediate need, instead of depositing it in banks at 2 per cent interest, earns another $100,000 for the taxpayers.

The Citizens' Bureau of Milwaukee, a nonpartisan research organization, points out that the city since 1930 has been reducing expenditures, an accomplishment also rather unique in recent municipal history. 1931 expenditures under city council jurisdiction represented a decrease of 2 per cent under 1930 and the tentative budget for 1932 carries a 5 per cent decrease under 1931. In other words, the grand total of the 1932 city council budget is more than $1,800,000 less than for the year 1930.

It is clear that there is no magic in Milwaukee's methods or accomplishments. There have merely been applied to the financing of a city the same alert policies that a well run business would employ. Mayor Hoan and his associates have viewed the city as a public service corporation with a primary obligation to protect its own financial position. They have not been led astray by theoretical, and unreal, distinctions between municipal finance and private finance. Today, when municipal bankruptcy has become more than an oratorical expression, will anyone dispute the soundness of Milwaukee's viewpoint or disparage its efforts to make the municipal government financially self-sufficient?

Mr. Hoan has been mayor of Milwaukee since 1916. From 1910 to 1916 he was city attorney. Some of the reforms which he discusses were put into effect while he served in this office; others were not effected until he became mayor. Naturally he speaks as a defender of his administration. Some of his statements have been disputed by critics and political opponents. We expect next month to present an outside estimate of Milwaukee's accomplishments in a general article on the city's financial condition.

*

Deflating Government Is government inflated? If so, can it be deflated? The Detroit Bureau of Governmental Research states the situation thus:

> A nation buying fourteen billion dollars worth of government from a prosperity income of 90 billion dollars, finds itself buying government to the same amount but from an income reduced to, say, 65 billion dollars.

Government, continues the Detroit Bureau, will operate on an unflated scale so long as it can.

Everyone shouts for tax reduction. But efforts to shorten payrolls bring political repercussions unpleasant to office holders. Tax reductions through elimination of services bring protests from the innocent taxpayers themselves, not to mention the wheel horses of politics. Moreover, certain functions of government become more important in times of distress; some services must be expanded rather than curtailed. A uniform horizontal cut in all activities would be most unwise.

Undoubtedly great economies in government can be attained without reduction in services. Elimination of overlapping governments, greater personnel efficiency, better accounting control, simplified administrative structure, spell savings without curtailment. It is too bad that in boom times these are only academic questions for most people.

But regardless of possible economies through improved efficiency, the time has come to reëxamine our standard of public living. When private standards were sky-rocketing upward it was natural and proper that public standards would move in a like direction. It was natural that cities and states

should increase their borrowings when the whole world was piling up debts. The very interests protesting against public debt were themselves caught in a mania of private borrowing. Eager lenders and receptive borrowers were not peculiar to American government.

But is it desirable today that the 1928 standards of governmental living be retained? Is every taxpayer in fact entitled to boulevard paving in front of his property? Have we overdone highway construction? Has installment buying by governments gone too far? What are the limits to the tax capacity of the public?

Such are some of the difficult questions which our governing bodies will have to decide in the next few months. They do not admit of precise solution in mathematical terms. Nevertheless, the budgets of our national, state and local governments, consciously or unconsciously, constitute the people's answer to them. It is to be hoped that the narrow line will be found between socially excessive and socially necessary expenditures in a changing world.

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St. Paul's Salary Index Suspended as Prices Fall

The St. Paul system of adjusting municipal salaries to the cost of living as set by the index published by the United States bureau of labor statistics was suspended when the index for June, 1931, indicated that a cut of 9 per cent or more would be in order on January first of this year. Agitation, begun when the prospective cut became known, influenced the council to omit the automatic decreases for the year 1932.

Introduced in 1922, the St. Paul device[1] provided for an average 50 per cent increase in wages over 1916, which was taken as the base year. In adjusting wages at the outstart the full percentage increase over 1916 was allowed only to the lower paid employees on the popular theory that the higher paid are not affected so seriously by a rise in the cost of living. In 1924 and 1927 wages were adjusted upwards in accordance with the cost of living index. In 1928 they were adjusted downward to the 1922 position and on January first of last year another decrease of 3 per cent was made, bringing salaries below the 1922 level. A further reduction which would have brought salaries to about 40 per cent above the 1916 level has been held up, as already described.

The system evidently worked satisfactorily as long as the trend of prices was upward. Based, as it was, upon a scientific classification plan, it protected the city council and prevented discriminatory treatment of various classes of employees.

Whether this mechanism can be expected to work so well in reverse is debatable. One thing is certain, however, that wage decreases are less popular than wage increases and the flexibility of the plan is wrecked, for the time being at least, on the rock of falling prices.

[1] For full description see John B. Probst, "St. Paul Adopts a Stabilized Wage," NATIONAL MUNICIPAL REVIEW for October, 1926.

HEADLINES

Twenty-two million dollars a year can be saved by Chicago if the recommendations of the mayor's advisory commission for reorganization of the administrative departments are carried out, according to the report of this body, of which Sewell L. Avery, prominent entrepreneur, is chairman. It's now time for Big Bill Thompson to sing, "That's where my money goes."

* * *

A movement for an independent ticket in the municipal elections of 1933 has been launched in New York by the Committee of One Thousand, of which William J. Schieffelin is chairman.

* * *

In the first successful recall election in the history of Pasadena, California, voters discarded the entire board of city directors and replaced members with candidates sponsored by the Pasadena Association, whose leaders had charged the recalled group with bickering and inability to coöperate for the city's welfare.

* * *

Adjustments in public payrolls comparable to those of private industry are demanded by the Utah Taxpayers' Association in a resolution passed at its recent annual convention. More cutting of salaries to help stimulate buying in a depression!

* * *

Chicago municipal employees have all received cuts of from 20 to 27 per cent. But they're lucky, compared with the teachers to whom the board of education owes $20,000,000 in back pay.

* * *

Unless all "backdoor" financing is barred, the victory of Philadelphia taxpayers in preventing an increase in the 1932 tax rate will be a hollow one, the Philadelphia Bureau of Municipal Research emphasizes. Previous administrations take a bow.

* * *

American cities cannot much longer bear the awful load of partisan administration, declares Mayor Russell Wilson of Cincinnati, quoted in the monthly bulletin of the Union League Club of Chicago.

Legislation to place the credit of the state behind short-term municipal borrowing is being considered by Governor Ely of Massachusetts to tide the cities over the period of stress.

* * *

The Melrose Park, Illinois, fire department now operates on a strictly cash basis! Unpaid for five months, when answering an alarm, they now ask the owner if he will pay to have the blaze extinguished before they go to work, according to newspaper reports.

* * *

News of salary suspensions, funds running low, and similar cheering events is becoming so common these days that the really big news is the city that's getting along all right. Reporters are inquiring now about Cincinnati, Milwaukee and Richmond.

* * *

Some busy statistician has figured out that every baby born in Chicago starts life with a debt of $95, if only municipal borrowing is considered. Including county, state and federal debts, his handicap is $250!

* * *

Another campaign for metropolitan government in the Cleveland area has been launched by the Borough Plan Committee, which will ask the legislature to pass permissive legislation. This will probably tie up with the state-wide movement for county home rule.

* * *

Few cities in the country these days can boast of collecting more money than they expected. But, according to newspaper reports, Richmond, Virginia, ended its fiscal year January 31 with collected revenues exceeding estimated income by more than $100,000. Richmond must be prosperous, or else a ripsnorting tax collector has done the impossible!

* * *

Concurring in the recommendation of the Virginia state commission on county government that a law be passed by which the amount of the default of any county may be paid by the state out of any state appropriation coming to the county, Governor Pollard urged the measure as the most effective way to protect the credit of other counties. Approving the work of the commission, he said that unless county government is improved, "local self-government in this state will be endangered."

* * *

Inferentially pointing to the City Manager Plan and specifically mentioning proportional representation, Samuel Seabury in his report on the investigation of the government of New York City, stressed the importance of structural changes to correct the conditions that are being revealed. This may be one investigation that leads somewhere!

HOWARD P. JONES.

The President's Housing Conference—and Later

THIRTY-ONE committees with a total membership of 540 presented 31 printed reports and unnumbered appendices to the 3700 delegates attending the President's Conference

BY HAROLD S. BUTTENHEIM *Editor, The American City*

DEVICES and procedure for the improvement of housing conditions, ranging all the way from the possible invention of a mechanical pot-washer for installation in the kitchen, to a possible amendment to the Constitution of the United States, were suggested in the committee reports and discussions at the great meeting, in Washington in December, of the President's Conference on Home Building and Home Ownership.

For mere size the gathering was a notable one. Its complexion and complexity, likewise, were of more than passing interest. From every state in the Union came, as official or unofficial delegates or guests, men and women interested in all phases of the housing problem. The registration totaled some thirty-seven hundred. In preparation for the meeting, preliminary plans for which President Hoover had announced over a year previously, twenty-five "fact-finding" committees and six "correlating" committees, with a total membership of 540, had held many a protracted meeting. These committee labors had resulted in thirty-one printed reports, copies of which were distributed freely at the various sessions, and in many mimeographed appendices, obtainable while they lasted, by those who made special request for them.

The Editor of the NATIONAL MUNICIPAL REVIEW has done wisely in asking that the present discussion be limited to three thousand words; for anything approaching a verbatim publication of the reports, appendices and discussions at the thirty-four sessions of the Washington conference would require more nearly three million words.

GOVERNMENT AND HOUSING

If it may be assumed that most of the REVIEW's readers are interested in the relationship of government to the housing problem, it may be wise to devote most of our limited space to that phase of the subject. The list of conference committees contained none in which the word "government" appeared. It was inevitable, however, that many of the committees would urge more adequate laws and more effective enforcement by states and municipalities in the *prevention* of housing ills, and that some of them would cast at least sidewise glances in the direction of more positive action by these government units in the *promotion* of housing betterment. A few quotations may be of interest:

Committee on City Planning and Zoning:

Lack of stability of values caused by the shifting of populations from one district to another

has a detrimental effect on home ownership. City planning in practice has been predicated upon endless growth of the city. Zoning regulations have been too liberal. The need for city planning and zoning is not based upon *growth* but upon a *very definite scale of growth.* City planning and zoning are instrumentalities through which there may be brought about a greater fixation of areas based upon the probable future population of the municipality distributed in accordance with a balanced arrangement. The study of the probable increase in population will take into account, among other things, modern social factors, changes in the immigration laws, and the mechanization of agriculture. The layout of the city will not then be based upon an endless expansion at the edges with a constant deterioration nearer the center, but will be so controlled that these more central areas will provide amenities sufficient to withstand blighting and deteriorating influences. Until this conception of city planning in relation to housing is adopted, there will continue to be a lack of stability in values and in population pattern and these will consequently continue the lack of invitation to many potential home owners.

Committee on Large-Scale Operations:

The successful development of large-scale operation is dependent upon certain adjustments in present laws, codes, and restrictive measures. Since all of these have been predicated on either individual or small-scale methods, readjustments are both desirable and inevitable. In addition to these more obvious changes, the all-around advantages of large-scale construction warrant special encouragement in the form of public concessions in so far as these do not entail interference with, or losses to, other desirable forms of enterprises. Large low-cost housing projects will not only benefit those who are better housed, but will be advantageous to communities, particularly in the development of inactive areas in which public improvements are now inefficiently used, entailing loss to the whole city.

The controlling factors that limit or make difficult the immediate and comprehensive application of large-scale operation principles are: (1) legislative and other regulatory restrictions; (2) antiquated building practice; (3) difficulty in land assembly; (4) lack of adequate financing. . . .

One of the major problems in the application of large-scale operation arises from the necessity of assembling large areas of land at reasonable cost. To facilitate the solution of this problem, it is recommended that the soundest laws on land assembly now used by public bodies be adopted, and participation in such benefits be allowed to limited dividend corporations under state and local supervision. Condemnation privileges are now granted to such private or semi-public enterprises as railways, ferries, public utilities, market-places, airports, and cemeteries. If corpses acquire a domicile by these methods, by what logic can we deny them to a living person who wishes not to dig a grave but to erect a house? A subject of so great public benefit as housing for lower-income groups should certainly be entitled to privileges comparable with those enumerated above.

Committee on Finance:

To insure greater stability in home property values, and to help correct over-built or under-built conditions where they exist, the establishment of a permanent fact-finding bureau within the Department of Commerce is recommended to coöperate with local units of national organizations through the tabulation and distribution periodically, by districts, of dependable information regarding occupancy surveys, mortgages and trust deeds recorded, real estate transfers, new subdivisions opened, new construction, construction costs, rental trends, land value trends, interest rates, and foreclosures. . . .

The committee recommends that adequate statutes be adopted by the various states in the interests of sound home finance and the public, to the end there may be proper supervision over local mortgage-lending agencies and adequate publicity to periodic financial statements of these agencies. The committee believes this recommendation will do much to insure the maximum amount of liquidity possible in mortgages. . . .

The relationship of proper governmental administration to property values is obvious. It is important to bring to the attention and knowledge of home owners as well as tenants the fact that the security of their home ownership, as well as the cost of their rent, depends to a considerable extent upon the efficiency and honesty of the government of their municipality, as well as upon its willingness to give reasonable service in respect to schools, parks, playgrounds, streets, etc.

Committee on Taxation:

The common practice of improving new subdivisions by the use of public funds should be, if not entirely abandoned, then at least severely restricted. The improvement of subdivisions by the owner, at his own expense, on city plans and specifications, and subject to city inspection, has in some cities been made a prerequisite to the recording of a subdivision plan. The plan has entirely eliminated the losses due to delinquencies in such areas, losses which have assumed disastrous proportions in many cities, and has at the same time preserved intact the full measure of the city's police power over land uses. If cities generally had adopted the policy ten years ago of refusing to extend public credit to private speculators, that step alone would have gone far to prevent much of the harm which has been done by loose, special assessment financing, and by the premature subdivision and improvement of suburban areas.

Correlating Committee on Standards and Objectives:

There should be

1. A definite policy and program for the treatment of blighted areas and slums.
2. Express legal power to proceed to clear areas because they are insanitary or because the public interest requires it.
3. Legal authority to demolish structures that have reached a point of deterioration so that they are hazardous to health, safety or morals.
4. A fair basis of compensation for property taken—fair to the property owner and fair to the taxpayer.
5. Legal authority to replan areas so unsuitably planned or so covered by substandard, obsolescent or deteriorated structures that their continued use or presence jeopardizes public welfare and municipal economy.
6. Comprehensive replanning and rezoning of such areas in harmony with the city's master plan and designed to secure the best economic and social use of the sites as they are cleared from time to time, so that private owners engaged in altering or replanning structures will be influenced to conform to such plans for future development.
7. A sound financing program for municipal improvements that will provide for a sharing of the costs and a recovery of expenses that will not make such schemes prohibitive.
8. An applied municipal program for the supervision of structures and the promotion of municipal projects that will help to prevent the future development of blighted areas.

MUST HOUSING BECOME A PUBLIC FUNCTION?

The foregoing quotations are from the printed reports, representing unanimous or compromise agreement among the members of the respective committees. Some of the thirty-one reports show exceedingly skillful steering along the middle of the road, with avoidance of serious deflection either from the uprising of the radicals or from the downsitting of the conservatives. Others, however, are obviously the work of committees dominated by ultra-conservative majorities. In some cases material too radical for the printed reports has found its way, under the names of individual sponsors, into mimeographed appendices.

One such is the brief document entitled "Better Housing through Rational Taxation"—one of the eight appendices to the report of the Committee on Blighted Areas and Slums. Another is the 46-page mimeographed "Special Report of the Committee on Business and Housing," signed by Richard T. Ely, President of the Institute for Economic Research (affiliated with Northwestern University). This monograph, conservative certainly in the main, contains the following significant paragraph:

It must be admitted that so far private industry has not been equal to the task of giving all our people satisfactory housing, and that it has failed miserably in meeting the need of millions of people with low incomes. We have our terrible, disgraceful and demoralizing conditions

found in the slums of our great cities. Should it then be said that because so far private industry has not furnished satisfactory housing for a large proportion of the urban population, and for a smaller proportion of the rural population, we should separate out the task altogether from private industry and make it a public undertaking? What I, for my part, am prepared to admit, is this: we should carefully investigate the desirability of separating out from private industry the housing of the poorest people in our country and making that a public function. Where government enters in, private industry should step out—and must step out. If we do separate a part of the task of providing housing for the people from private industry and make it a public undertaking, then the housing of the people otherwise is a private undertaking without direct government competition.

There was no discussion at the Washington conference which would indicate the extent of the support or opposition to Dr. Ely's indictment of private industry or of his suggestion that the housing of the lower-income groups may have to become a public function in America.

But if we may assume general agreement with President Hoover's belief that "it should be possible in our country for any person of sound character and industrious habits to provide himself with adequate and suitable housing," the alternatives suggested by Louis Brownlow, in Appendix E of the Committee report on Large-Scale Operations, seem inescapable:

> It is the lowest-income groups of workers and would-be workers who live in the worst of the slums. Thus far, so far as I can learn, nobody has found a way to house families of this type if they be required to pay a rent that will produce a return upon the capital cost of the housing. The payment of such a return is contemplated, at any rate, in the types of housing considered under governmental regulation and under governmental participation. But for these families of the lowest-income levels—their number is a startlingly large proportion of the whole number of families—there are but three possible things: (1) Continue to live in the worst of the slums; (2) Increase the family income so as to permit paying rent in the better houses produced under the types of governmental regulation and participation discussed above; or, (3) Provide government subsidy that will permit houses to be built to be rented within the means of the people to pay.
>
> That means, of course, a radical departure from the usual American way of looking at things. It will be said that it will put the government in competition with its enterprising citizens, notwithstanding the fact that citizens of the utmost enterprise have tried to meet this need and have failed. It will be said that it will cost too much. Again, that cost should be set up as against the cost of going on the way we are going. It will be said that it will destroy our political institutions. Well, some people think they are in danger anyhow, and I know one very able political and economic thinker who says that it might be very good politics indeed for the existing order to see to it that the parts of the city that have the control in votes get the decent housing they want, rather than to leave the job to some other order which these same voters may have it within their power to establish.

A CONTINUING ORGANIZATION PROMISED

Although it seems unfortunate that in the committee reports such fundamental questions as those raised by Dr. Ely and Mr. Brownlow were largely ignored or relegated to appendices, there can be no doubt that great public benefits have come, and will continue to come, from President Hoover's method of using the prestige of his office and of that of the federal government to stimulate nation-wide thought and local action on matters of civic and humanitarian concern. The value of this method had been previously demonstrated by the three National Conferences on Street and Highway Safety and by the White House Conference on Child Health and Protection. The Housing Conference was similarly organized; problems largely beyond the scope of federal govern-

mental jurisdiction were studied by unpaid committees willing to serve at the request of the President; and funds were provided privately to cover the costs of printing and of some of the research work.

As was the case, also, with the other national gatherings, there is reason to believe that the post-conference activities will be of wide scope and will meet a real need. Indeed, the lack of well-financed bodies for research and information in the housing field is much more marked than it is or was in the safety and child welfare fields. Several of the committee reports at the December meeting stressed the importance of further light on their problems. The concluding session, conducted by the Committee on Research, and lasting nearly four hours, included some eighteen "five-minute" presentations (some of them much longer) of research needs in the many branches of activity covered by the conference.

The importance not merely of research, but of more efficient organization, for getting things done, was emphasized by various committees.

Detailed recommendations for future organization and research are to be found in the report of the Correlating Committee on Organization Programs. In brief, this committee expressed its belief that "naturally and locally, the subject matter of the President's Conference on Home Building and Home Ownership in its broadest sense, as reflected in the fields of the active committees, would be given direction, coherence, and impetus if there were to be financed and set up a National Institute covering the field of the activities included in the President's Conference. This Institute would make the maximum use of existing organizations and agencies, would not maintain memberships, and would probably not be militant in the way in which membership associations serve the public interest."

> Without suggesting absolute adherence to the functions proposed, the committee recommends that such an Institute should have departments which would, roughly, include the following functions:
>
> 1. To stimulate, guide and supplement research.
> 2. To stimulate promotion and education, making the maximum use of existing agencies.
> 3. To serve as a clearing house for dissemination of information to prevent duplication of effort and assist in coördinating the work of various existing agencies.
> 4. To continue and expand the demonstration work for home improvement now being carried on.
> 5. To set up an exhibit service.
> 6. To provide for national and regional conferences at intervals.
> 7. To stimulate activity of existing groups and local programs, including the establishment of responsible local groups to promote local interest in home and community planning.

That something worth while is likely to come of these recommendations is indicated by the statement made on behalf of President Hoover, at the last general session of the December conference, by Secretary of the Interior Ray Lyman Wilbur:

> The President has asked me to give you a personal message. . . .
>
> He asked me, particularly, to tell you that you were enlisted in the "war" against bad housing and for good housing, and to tell you that he hopes to see you again in about a year in a second conference. This housing "war" is not to stop until every American home is clean, convenient, wholesome, sanitary, and a fit place for a mother and father to bring to maturity young citizens who will keep our Nation strong, vigorous, and worthy.

May the President's dream be realized, and may many readers of the National Municipal Review help hasten the promised day!

Milwaukee Financially Sound and Content

WHY is it that—when other cities are facing bankruptcy—Milwaukee has a sizable bank balance and a favorable credit rating, asks Mayor Hoan

BY DANIEL W. HOAN *Mayor of Milwaukee*

THE answer to the question asked in the doormat above must be sought in Milwaukee's financial program. It was not put into effect overnight, or by the stroke of some magic wand. It has been made possible by a gradual process extending over a period of twenty years. What Milwaukee has done in putting its financial housekeeping in order can be done by every other large city—if it has the will to do so.

LOSS OF INTEREST MONEY

One must first understand the bad practices which prevail in order to appreciate the significance of remedies. One of the principal curses is the habit of borrowing. While the issuance of bonds for major projects of long life cannot at present be wholly eliminated, it is cowardice for public officials to indulge in, and wrong for the people to demand, that a municipal government continue to borrow, borrow, borrow, thereby multiplying its interest expense, when honesty and prudence should require the levying of sufficient taxes to meet a given expense.

Let us illustrate this by picturing as an analogy a private business poorly managed. Let us suppose we are operating a hotel and discovered that in October the receipts for the year were much less than the actual disbursements during the period. Let us say that we rushed to the bank and borrowed the amount needed to make up the loss and pay an interest rate of 6 per cent on the loan. This interest payment would not only be a dead loss to the business but would aggravate the problem by increasing the annual deficiency.

Let us discuss another bad practice. Suppose the best two months' business occurred during the months of January and February. During this time a considerable surplus of cash was accumulated. Assume that we deposit this surplus money in the bank to draw but 2 per cent when we could buy short-term United States bonds or safe municipal securities and earn 4 per cent interest. It is plain that the management of the hotel would lose in its annual receipts the difference between the 2 per cent and the 4 per cent rates of interest.

It must be easy to understand that in the first example the business will be piling up trouble by increasing its interest expense at the bank and losing an opportunity of increasing its revenue. In the last example we will lose interest money which should be earned. Every banker or stockholder in a bank knows that this practice is indulged in

universally by cities; that it is detrimental to the best interests of the community although profitable to the bank. Still he makes no move to rectify the practice. The trouble is that his local patriotism is at war with his pocketbook.

BORROWING FOR RECURRING EXPENSES

We will pass on to another problem. Imagine that the floors in the hotel were worn and needed replacement about every six or seven years much as street pavement needs to be relaid. Since the hotel's receipts are not adequate to pay for this replacement, the manager slaps on a mortgage to pay for the alteration and adds a second, third and fourth mortgage every seven-year period when the floors or other similar replacements must be made. Surely the normal mind can grasp the fact that the added interest charges accumulated by such mortgaging or bonding the premises as the case may be, will rapidly increase the loss to the business and even drive it along the road toward final bankruptcy.

Such is the case with municipalities issuing bonds for recurring expenses such as the dredging of rivers, the laying of pavements and similar ones that should be paid for out of cash tax receipts each year instead of out of bond issues which drive the city into debt and increase its interest charges.

Let us say that the hotel needs painting or the rehabilitation of some department and a contract is let for the purpose. Imagine the manager issuing notes to the contractor in payment for his work. Again would the interest burden increase. It is quite a universal practice for municipalities to issue such paper, which is usually called certificates of indebtedness bearing 6 per cent or more interest, in payment for work. Again the financial headache of the municipality increases. Such poor financing not only adds to our interest burden but induces the contractor to charge more or bid higher for the work required. Further illustrations are needless to prove that such a private business must ultimately pass into bankruptcy and complete collapse.

In the city of New York, for example, out of every tax dollar received, 42 cents must be paid to meet the debt obligation which comes due each year and to defray the growing interest expense. In the city of Milwaukee, because of a different policy, only 18 cents out of each dollar collected in taxes are used to retire bonds and meet interest charges. This is a saving of 24 cents or virtually one-fourth of every dollar collected in taxes that can be used for other desirable purposes rather than to be disbursed on the dead horse of public debt.

In Milwaukee, prior to 1910, the government indulged in all the practices above indicated. The tax rate indeed for a time was kept low but the agony of municipal management increased until finally every fund in the city was depleted. The fire and police pension funds were bankrupt to the tune of $2,000,000; there were insufficient funds in the budget to operate the city; there was a shortage of nine schoolhouses; bridges and streets were in disrepair; no playgrounds for the children. In brief much the same condition prevailed as now faces every other large city.

Each year at least a few taxpayers were unable to pay their personal property taxes. These unpaid taxes became an accumulated deficit in the city treasury.

Only the taxes to operate the public schools were collected in advance of spending. Taxes collected in December and January for the schools were paid in to meet the operating expenses

during the coming year. But for all other departments the money had to be provided in a large part by borrowing from banks to maintain the city government throughout the year, the tax for this expense being collected the year following.

NOTABLE ECONOMIES EFFECTED

The first step taken to put Milwaukee on a sound financial basis was to check the borrowing habit. The first Socialist administration in 1910 discontinued issuing bonds for the city's share of street improvements and secured the passage of a law forbidding this practice.

The second step was to stop issuing bonds for the annual dredging of the rivers and similar recurring expenses. In place of bonds, in both instances, the city levied a cash tax to meet these bills and thus began the task of checking the mounting debt burden.

So that this added tax would not be too great a hardship it became necessary to effect certain economies. Among these was the establishment of a scientific budget system. Under this plan the city officials must estimate for the oncoming year the amounts of moneys needed to operate their departments. The board of estimates compares the thousands of items with the amounts spent the previous year. It reduces these estimates and finally adopts the budget. Thereupon a tax rate is fixed to collect the moneys needed to operate the city for a year. Under this plan not only was every endeavor made to check city expenditures where possible without eliminating desirable services but it henceforth became impossible to operate the city with a deficit. The money was collected as provided in the budget and no department could expend more than the budget appropriation. As a result instead of a deficit each year as had been the case, we have since wound up every year with a surplus.

To effect further savings we created a centralized purchasing agency. By systematizing the buying and by purchasing in major quantities through one bureau, a saving estimated conservatively at 10 per cent on materials and supplies was effected. These savings enabled us to stop other practices leading to deficits. A huge hole in the city's cash had been created by the annual losses due to those who through bankruptcy, moving, etc., had and were failing to pay their personal property taxes. To meet this and to make up for accumulated losses from this source, we provided for an additional small annual tax.

CASH RESERVE ELIMINATES TAX ANTICIPATION LOANS

As time went on it became apparent that it would be advisable to put the various departments on the same cash basis as the school board. Consequently an additional measure was enacted to provide for an annual tax that would accumulate funds for this purpose. Thereafter, one by one, we could add departments for which the cash was collected on January 1 that was to be spent in operating these departments in the ensuing year. Year by year we have been placing one department after another on such a cash basis until today over three-fourths of our city work is on this basis and within the next three years all our departments will be so financed. In other words, over a period of years we have not only been able to wipe out the financial deficits of the past but to accumulate funds annually to place us further and further on a cash basis. This was made possible by the savings already mentioned and by others to be discussed.

One result of this annual increase in

the cash available to operate the city was the ability to pay cash for purchase of materials, thereby taking advantage of the cash discount which comes from prompt payment. Approximately $40,000 each year is now realized from this source, more than enough to finance the purchasing department.

With the increasing cash in the treasury we were gradually able to pay our contractors in cash thereby eliminating the old system of issuing certificates of indebtedness drawing interest. For the past several years all our contract work has been paid for when completed and the interest burden arising from the issuance of debt certificates has been entirely eliminated.

Not only this, we now have sufficient cash in the treasury to finance, for one year, work for which bonds are set up in the budget to an amount of $6,000,000 annually. In other words, the sale of $6,000,000 of interest bearing city bonds is delayed at least twelve months each year, thus cutting off one year's interest on such bonds and saving us an annual amount of at least $270,000.

THE AMORTIZATION FUND

A final problem which faced us was what to do with the bonded debt. All cities are staggering under this load. To solve this problem a plan was worked out that is unique among the cities of the world. The "amortization fund" was devised, which will within the next 30 years be sufficiently large to pay off all our public debt. When that time arrives fully $8.00 a thousand in the reduction of the tax rate will be achieved.

From where did the money come for the establishment of this fund? The answer is as follows: In all cities, including Milwaukee, it is the habit to deposit the city's moneys received at taxpaying time in the banks. For these moneys the city would receive 2 per cent interest, or less, annually from the banks. A Socialist alderman introduced a proposal that the city be authorized and the treasurer directed to invest part of these funds in either United States or good municipal bonds drawing from 3 to 5 per cent interest. Under this plan the city's interest moneys enormously increased. The difference between 2 and 4 per cent interest on millions of dollars of money even for short periods amounts to considerable sums. After these interest moneys began to accumulate a law was passed providing that one-half of all the city's interest moneys must be set aside and preserved in what is called an amortization fund, these moneys to be invested in first class municipal or federal bonds. Thus the fund is increased annually and is drawing compound interest. The fund has already exceeded the $3,000,000 mark and is growing each year at a remarkable pace. I have heard of no city in the world that has taken this or a similar step to wipe out the curse of its bonded indebtedness.

One might expect from reading the financial program above outlined that surely Milwaukee must stagger under a heavy tax rate.

This is not the case. The fact is that Milwaukee's tax rate has never been above the average of all American cities or even above the average of the larger cities. In other words, one-half of American cities, either large or small, have a larger tax rate while one-half have a lower tax rate.

At present our tax rate is beginning to drop below the average. I believe in Milwaukee the limit has been reached. Our tax rate for all city purposes including school tax is $26 per thousand of assessed valuation. Our assessments are made on the basis

of appraising property at approximately 74 per cent of its market value.[1]

ESTIMATE OF MONEY SAVED TAXPAYERS

The reader may be interested to know in actual figures just what economies are effected by the cash basis policy—just what this cash savings amounts to as a result of getting away from the borrowing habit. Some six or seven years ago I had occasion, in preparing an address for the Comptrollers' National Convention, to estimate these savings. I will give you the figures as of that time amounting to more than a million dollars annually:

Interest formerly paid on bank loans in anticipation of taxes	$35,000
Interest formerly paid out on contractors' certificates	100,000
Interest saved on $6,000,000 of bonds, issuance of which is now regularly postponed one year	270,000
Annual interest saved on cash financing of permanent improvements instead of by bond issues	238,500
Interest received from taxpayers through new policy of permitting extension of time for payment of taxes	52,000
Saving effected by centralized purchasing	900,000
Increased interest received through the policy of purchasing government and municipal papers instead of depositing cash balances in banks at 2%	100,000
Total savings	$1,695,500

I venture the opinion that were I to compute these items down to date they would approximate a $3,000,000 saving annually. In other words, had we pursued the old borrowing policy instead of the new, we would now be confronted either with the problem of paying approximately $3.00 more per thousand of assessed property valuation in taxes or we would have to curtail our necessary municipal services to that extent.

PUBLIC IMPROVEMENTS HAVE GONE FORWARD

We in Milwaukee have been able to lift ourselves out of municipal bankruptcy; to put department after department on a cash basis; to improve our credit and thereby cut contract prices for public work and the cost of our municipal purchases; and finally to promote on a larger cash basis a municipal program of public improvements unsurpassed by any other city.

The reader may doubt the last conclusion, but let me point out that during this period of 21 years, Milwaukee has brought its alley and street improvements from a deplorable condition to among the best paved cities in America; we have expanded the city's area from approximately 22 to 44 square miles; we have provided essential public improvements in all the new areas; we have added millions of dollars of capital investment to our water department both in new mains and in the construction of a $4,000,000 pumping station; we have built the most modern sewage disposal plant in the world to convert sewage into fertilizer; we have acquired virtually all the riparian rights along our eight miles of water front; we are building the finest municipal harbor on the Great Lakes and already have invested nearly $3,000,000 in the project; we have built the finest safety building in this country and motorized our fire department; and have brought all the city's services up to first place among American cities. The deficits in the

[1] C. E. Rightor's Comparative Tax Tables for 1931 published in the REVIEW for last December revealed that Milwaukee's rate for city purposes (adjusted to 100% basis of assessment) was lower than for any city of her population class except Cleveland.

firemen's and police pension funds have been removed.

To reduce this program of capital construction to actual figures, let me quote the Citizens' Bureau of Municipal Research, which in July, 1930, published a statement as follows: "The City of Milwaukee has financed more than one-half of its $105,000,000 of permanent improvements on a cash basis during the last 10 years," which means that projects for which formerly bonds were issued, have been paid for out of cash to the amount of more than $53,000,000 in a capital expenditure of $105,000,000.

When one stops to think that in addition to all this we are annually providing funds to put us still further on a cash basis and to build up a fund entirely to wipe out our bonded indebtedness of $45,000,000, which by the way is low for a city of 580,000 people, we are granted a financial record equaled by no other city in the world. While other cities, moreover, have little or no money to finance their recurring expenses, Milwaukee from day to day, even during the month of December (when this is being written and which is before taxpaying time) announces a cash daily balance in the city treasury of $3,000,000 not including the money in the Amortization Fund.

If it is conceded that our policy has been sound, do the people of Milwaukee like or dislike it? In a former election the two candidates opposing me both promised a lower tax. In fact, one of these candidates had served the city as mayor prior to 1910 and had levied lower taxes. The people of the city, however, were wary of their claims. In the primary one low-tax candidate was eliminated and in the final election the other was 17,000 votes behind. The fact is, that the people of any community, I believe, will back up a sound financial policy if given the facts. They like it in Milwaukee and they will like it elsewhere. It is only necessary to organize a political party of the producers and to call in the civic clubs and other groups interested and give them the facts: show them that the old practices mean ruin; that the additional burden each year in public interest will overwhelm them; that gradually the city must be placed on a sound financial and cash basis. Once understanding this purpose, and with the confidence that the city is practicing rigid economy, the people will give ample support.

What Municipal Home Rule Means Today

II. Minnesota: A Reappraisal

A VIGOROUS spirit of home rule and municipal self-reliance gives strength to a weak constitutional provision

BY WILLIAM ANDERSON *University of Minnesota*

THE CONSTITUTIONAL provision which authorizes municipal home rule in Minnesota was first adopted in 1896 and has not been changed since 1898. At that time only three other states had such provisions: Missouri, California, and Washington, and the amount of known experience with home rule was small.

THE HOME RULE PROVISION

The Minnesota provision followed in general lines that of Missouri. It provides that

"Any city or village in this state may frame a charter for its own government as a city consistent with and subject to the laws of this state." Such charter shall be drafted by a board of fifteen freeholders, and shall be deemed adopted if approved by "four-sevenths of the qualified voters voting" at the election at which it is submitted. It may be subsequently amended, but each amendment must be approved by three-fifths of the voters voting at the election, and the charter must "always be in harmony with and subject to the laws of the state of Minnesota."

The Minnesota provision is unusual in several particulars. First we should note the high majorities required for the adoption of charters and amendments. Second, the board of freeholders (charter commission) is appointed by the district judges, not elected by the voters. Third, while the term of a board of freeholders is four years, the law provides that the board shall be permanent. New appointments or reappointments are made every four years, at least for the larger cities, so that there is in existence at all times a sort of continuous, but usually dormant, local constitutional convention.

It should be noticed also that the constitutional home rule provision does not outline and guarantee the powers of a home rule city. On the contrary it puts certain limits on home rule powers and stipulates that before any home rule charter is adopted "the legislature shall prescribe by law the general limits within which such charter shall be framed." Thus it was left to the legislature, by general law known as "the enabling act," to define municipal home rule powers. For this reason home rule in Minnesota has been criticized as mere "legislative" as distinct from constitutional home rule.

EDITOR'S NOTE.—For earlier discussions of home rule in Minnesota, see McBain, *The Law and the Practice of Municipal Home Rule*, 1916, chap. XIII, pp. 457–497; Anderson, "Municipal home rule in Minnesota," 7 Minn. Law Rev. 306–331 (1923); Anderson, City Charter Making in Minnesota, 1922, *passim*.

Another clause of the constitution which supports this general view is this: "The legislature may provide general laws relating to affairs of cities, the application of which may be limited to . . . [certain defined population classes of cities] . . ., which [laws] shall apply equally to all such cities of either class, and which shall be paramount while in force to the provisions relating to the same matter included in the local charter herein provided for." This leaves no doubt that, if the legislature enacts general laws of uniform application, such enactments will supersede the home rule charter of any or all cities affected. Legislative supremacy is assured.

For purposes of legislation, the constitution divides cities into four population classes: those of over 50,000; those of 20,000 to 50,000; those of 10,000 to 20,000; and those of under 10,000 inhabitants. In fact since it does not require cities to adopt home rule charters, it creates two divisions in each class—those cities having, and those not having home rule charters. Thus eight classes of cities are recognized by the constitution, although it happens that there are no cities without home rule charters in certain population classes. All first and third class cities now have home rule charters. In the second class, however, Winona has not a home rule charter, while St. Cloud and Rochester have. Thus for the present decade at least, Winona, which seems to have a peculiar fondness for legislative control, may obtain all the changes it wants in its charter through legislative acts applying to "all" cities of the second class not operating under home rule charters. To a stranger in these parts this may appear to be thinly disguised special legislation, but it is "general" legislation according to Minnesota jurisprudence.

POWERS CONFERRED BY HOME RULE AMENDMENT

Although home rule is optional for cities in Minnesota, 70 of 94 cities have accepted the home rule status. In population these cities represent 92.75 per cent of the "urban" population of the state, and 93.64 per cent of the population of all "cities," including both those over and those under 2,500 in population. Of the 24 cities without home rule, 23 are small, ranging from 672 to 7308 in population. Considering the obstacles which stand in the way of the adoption of home rule charters in Minnesota, these high ratios reveal a rather widespread acceptance of the home rule idea. They show also that large places have the most desire and capacity to adopt home rule.

LEGISLATIVE AND JUDICIAL LIBERALITY

The extent of the power reserved to the legislature to interfere in municipal affairs, and the uses of that power, constitute obviously an important factor in determining how much home rule the cities enjoy. On paper, and considering only the constitutional provision, it would seem that the home rule power in Minnesota is a frail reed on which to lean. Any passing gust of legislative anger might easily break it off. As one commentator said, (reversing the state supreme court!) the grant of power to the city is a "mere form of words," offering no substantial support in a conflict with the state. This, with some qualifications, is probably a just comment.

What has happened in fact during the past 33 years? First, the legislature began in 1899 by passing an "enabling act," to make effective the constitutional provision, which went very far toward giving cities a liberal grant of home rule powers. This act

provided, and still provides, that a home rule charter "may provide for any scheme of municipal government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions as fully as the legislature might have done before the adoption" of the constitutional amendment which forbids special legislation for cities. Such charter may also "omit provisions in reference to any department contained in special or general laws then operative in said city or village, and provide that such special or general laws, or such parts thereof as are specified, shall continue and be in force therein, . . . It may prescribe methods of procedure in respect to the operation of the government thereby created, and the duties thereunder of all courts and officers of the district and county in which the city is situated, which duties such courts and officers shall perform."

Second, conforming to this very liberal enactment of the legislature, the supreme court also adopted a very reasonable and temperate attitude toward the powers thus conferred. Construing both the constitution and the enabling act according to their obvious intent, it held that a home rule charter is itself a local law, and that it is entitled to the same respect as was previously accorded to local acts of the legislature. Hence a city which does not go contrary to what the court deems to be a settled state policy, may in its home rule charter make provisions as to municipal affairs which differ even in important details from state laws upon the same subject. It may choose from among existing state laws, general and special, those which it wishes to put into its charter and omit those which it dislikes. It may regulate important local affairs, such as finance and taxation, police, public works, and others, not excepting even school affairs in certain cases.

On the side of means to be employed in accomplishing their purposes, home rule cities have in fact a very considerable freedom. They may adopt their own special taxes, such as business and license taxes, and systems of special assessment. They are free to employ the power of eminent domain, according to their own procedures, for acquiring land within or without the city limits. They may exercise police power in all important local matters.

In the matter of ends to be achieved, home rule cities acting solely under their own charter powers have established public fuel yards (Waseca), regulated local utilities as to rates and service (St. Paul and other cities), reorganized the school administration (St. Paul), limited the city's tort liability (Waseca), made vaccination regulations (St. Paul), voted out saloons before the days of prohibition (Duluth), regulated the election of municipal judges (Duluth), denied the right of appeal from the municipal court (Red Wing), and done a number of other things which the state supreme court has expressly sustained. Many other things have also been done by them under charter provisions without statutory authorization, such as establishing zoning regulations, but upon these there have been no final court decisions. The simple rule followed is that the home rule charter in all local or municipal affairs is equivalent to a local statute passed by the legislature. Hence if the legislature itself could have authorized the action in question, and it violates no constitutional provision or settled policy of the state, then the home rule charter provision is valid.

LEGISLATIVE INTERFERENCE AND LOCAL RESISTANCE

The legislature reserves the power to overrule such charter provisions by appropriate general acts. These must show a clear intent to overrule charter provisions since repeals by implication are not favored in such cases; but when this intent is evident, the paramountcy of the legislative act is unquestioned. By such acts the legislature has put per capita limitations upon local tax levies, mainly in the interest of the mining industry on the "Iron Range." It has transferred to the state railroad commission the regulation of telephone rates and service, and of street railway rates, and the control of grade crossing eliminations. It has made uniform regulations respecting municipal bonds and debt limits, wheelage taxes, the filing of claims against cities, and a number of other matters. In a sense these acts are all limitations on the powers of home rule, but only a small number of them have aroused serious opposition in the cities.

A word should also be said about bills which did not pass. Of these the most important have related to the creation of a state public utilities commission to regulate gas and electric companies, the introduction of a state police system, and the establishment of a modified "Indiana plan" of local tax and debt control. If one looks into the history of these and other defeated measures he will find that the spirit of home rule and self-reliance is very strong in Minnesota cities and villages. This alert and watchful spirit is embodied in part in the active League of Minnesota Municipalities, but it manifested itself vigorously even before the league was created. To the writer this appears to be the most important factor in the upholding of home rule rights in Minnesota. Eternal vigilance is the main part of the price to be paid for home rule. In the short run it has done more for Minnesota cities than a much stronger home rule provision could have done without it, as we see from the experience of other states. If in the long run it proves inadequate, if vigilance is replaced by indifference —well, may not that be the test of whether home rule is worth preserving?

SPECIAL LEGISLATION STILL A FACTOR

But though the municipal home rule provisions are generally satisfactory to Minnesota cities, there are several spiders in the ice cream. In the first place, a certain amount of special legislation is produced at every legislative session, despite the constitutional prohibition. It is often cleverly concealed under a classifying formula which seems to have some breadth, but just as often its truly special character cannot be denied. Some of this legislation is harmless, but in other cases it is like the little foxes which destroy the vines.

Why should there be special legislation for cities in a state where every city and village may draft, adopt, and amend its own charter? From the side of the legislature it must be recognized that it is composed not merely of a certain number of members, but of a group of county and city delegations, each representing its own constituency. When powerful interests in any constituency, often backed by the local city council, put pressure upon the local delegation to procure the passage of a local law, it is asking the representatives to be more than representatives and more than human, always to refuse to do so. Provided a bill can be drawn so as not to affect more than one city, other members of the legislature are not likely to oppose it.

While seeking other objectives, legislators are likely to overlook the ad-

vantages of home rule. Thus in 1921 a slightly unusual situation in one locality, which consisted of one village and part of another one, led to the drafting and passage through the legislature of a lengthy bill authorizing the incorporation of such a community as a city, and embodying the entire city charter in great detail. The situation could have been handled by the village adopting a home rule charter, and by a simple change in the annexation laws which would have permitted the annexation of the small outside area. This easy solution either was not considered or was not approved. The entire law was passed and printed in the session laws of 1921, and has had to be reprinted in each compilation of "general" state laws since that time. An outsider might read the statutes of Minnesota and come to the conclusion that this lengthy statute is a very important act. In truth it has come to concern only two small communities in the whole state and was a wholly unnecessary act from the beginning.

Some part of the difficulty here under discussion undoubtedly arises from the communities themselves. Many lawyers who advise local governments have never come to understand or accept the home rule principle. When local changes are desired, they think first and only of the legislature. Frequently, also, local interests fear the results of submitting their proposals to a vote of the electors in the form of charters or charter amendments. Recourse to the legislature seems the easier and less conspicuous way of getting the result. In one large city, members of the city council who have been loudest in their denunciation of the legislature in taking from the city its control over street railway fares and grade crossings, have themselves sponsored bills to be passed by the legislature to change the date of the city elections and to increase their own salaries—both matters which could be accomplished by charter amendment. In the city of Winona, which stood for some time as the only city of the second class, it was earnestly argued that it was simpler and easier to get legislative acts to amend the old special charter than to adopt and amend the charter by the home rule procedure. Winona is still without home rule.

DIFFICULTIES OF CHARTER AMENDMENT

It is only fair to say, however, that one of the reasons for seeking legislative help instead of resorting to the home rule charter amendment process is, in many cases, the difficulty in getting such amendments adopted. This may be set down as the second major defect in home rule in Minnesota. In small cities the difficulty is not so much that of getting out the necessary vote, as it is that of the expense of publishing amendments for thirty days in three newspapers of general circulation in the community. This frequently requires resort to publication in one or two daily papers published in larger cities in the vicinity. Attempts have been made to reduce this publication requirement but in vain.

For the larger cities the difficulties are both the expense of the election, and the high majorities required. An amendment is not adopted unless approved by a three-fifths majority of all voters voting at the election. If a special election is called, the election expense is high. If the amendment is submitted at a regular primary or general election, the expense is less, but more votes are required to pass it, since non-voters on the amendment in effect vote against it. As a result of these twin difficulties, very few charter amendments are passed in Minneapolis, but St. Paul reports a somewhat higher percentage of adoptions.

One of the oddities of local practice in Minneapolis may here be mentioned. The statute provides that a special election may be called "at any time." Resting its case upon this slight phrase, the city council, following legal advice, assumes the right to call a "special" election at the time of a "general" election, the polling places, ballot boxes, and judges to be the same. The judges of election then count the votes cast on the charter amendment as if they represented all the voters voting at the election. This appears to be in direct violation of the constitution, and has a very interesting result. When the city council likes an amendment and wishes to see it passed it calls a "special" election under these conditions, and when it dislikes the proposed amendment it fails to designate the election as special. Thus its fiat in calling an election special or not designating it as special is worth many thousand votes one way or the other. This gives the council a power almost of life or death over many amendments, a result obviously never intended by the framers either of the constitutional provision or of the statute.

CHARTER DRAFTING: GOOD AND BAD

The Minneapolis situation is unusual in another respect. When the question of adopting a home rule charter came up again in 1920, after repeated failures of the city in earlier years to adopt home rule, the charter commission chose to raise only one issue: Shall the city have a home rule charter? It decided not to change either the form or the powers of the government, but rather to go before the voters saying: "Here is your present charter, as copied without change from the laws of Minnesota. Will you adopt it as a home rule charter, or do you prefer to have the city remain directly under state legislative control?"

Anyone familiar with legislative charter drafting can imagine the type of document Minneapolis thus "adopted" as a home rule charter. It is long, involved, and at points even vague or contradictory, and it provides for an unusually complicated government. At the end, when the hand of the copyist grew weary, a whole series of legislative acts, such as for example the housing act for first class cities, was included by mere reference. Today even an amendment to the local housing code requires a charter amendment. The freeholders were advised at the time that charter amendments are expensive and hard to obtain in large cities, and that they were really doing the city no service in submitting this archaic hodge-podge to the voters as a home rule charter. At least there should have been redrafting and simplification—but even this did not result. Consequently, except for a few minor changes, the Minneapolis charter is still what it was in 1920, and probably will be for many years. This is a good example of how not to draft a charter.

In general it can be said that charter drafting is somewhat better than it used to be. The League of Minnesota Municipalities has an attorney who gives some attention to charter drafting work, and a little manual on charter making published by the state university has been rather extensively used by charter commissions. Even so the results are often unsatisfying. The writer has seen one complete charter draft ready to go before the voters of a small city into which the local attorney had been able to get at least five obviously unconstitutional provisions, not to mention other items of poor draftsmanship; and also certain amendments about to be submitted in one of the largest cities which were based upon a method of election long

held to be invalid in this state. The local product is also frequently unprogressive and sometimes recidivistic in matters of municipal organization and procedure. Such relapses are, of course, a part of the price to be paid for municipal home rule.

There are numerous minor complications and difficulties in the Minnesota home rule situation which it would not be profitable to discuss here. There are important omissions, also, such as the failure to provide for county home rule, or city-county consolidation, or to authorize proportional representation in city councils. It is interesting to note, however, that among the leaders in municipal affairs in Minnesota there is no great dissatisfaction with present home rule arrangements. Some years ago the author of this little article drafted a proposed constitutional amendment for strengthening the position of home rule charters,[1] but even the committee on home rule of the League of Minnesota Municipalities did not deem the matter to be urgent, and no action has been taken toward revising the home rule provision. This inactivity on the part of the friends of home rule may indicate either that they are unaware of the need for a change, or that they are substantially satisfied with existing arrangements. The writer believes that both of these explanations are true in part, but that the latter is the more weighty reason for their inaction. As long as the cities are well organized for presenting their case to the legislature and have considerable influence with that body, they have little reason to fear. It remains to be seen whether the present distress of the taxpayers will not produce in the legislature a reaction against local fiscal policies which will result in a drastic reduction of the financial freedom of home rule cities.

[1] "Municipal Home Rule in Minnesota: A Proposed Amendment to the State Constitution." League of Minnesota Municipalities, Pub. No. 2, (1924).

Has the Indiana Plan Been a Success?

THE following article was written by one who has had exceptional opportunities to inspect the actual workings of the Indiana plan of state control over local bonds and budgets

BY OBSERVER

FOR ten years there has been a good deal of ballyhoo for the so-called "Indiana plan" of tax control. But for eight or more of those years it awakened no serious response. Along came a real depression, and with it a stage setting that made the picture more alluring and tempting than the ballyhoo artists had thought possible.

It has fallen to the lot of some others, outside Indiana, to examine into the claims made for the Indiana plan and to study the theory of it, and to set forth some inherent weaknesses of the claims and the theories. This is an article from one who as an "insider," has a point of view that has not yet been expressed before the government administrators and researchers who have had a passing interest in the Indiana plan. Without being overly technical and specific it will set forth the reasons why one who has examined public budgets in Indiana and fought with and against public officials of communities in that state for budget economies and tax reductions believes that the Indiana plan is not the panacea that so many casual tax-irritated groups believe it to be.

The past two years have brought forth a good many volumes of research and opinion on the problem of state and local taxation. A great many have advocated, with more or less reservation, adoption of the Indiana plan as a means of reducing local taxes.

The application of such a plan will not solve the tax problems of other states. It has not done so for Indiana. Eight or nine years after adoption of the Indiana plan, even Indiana, too, had its state commission on tax reform. In other words, Indiana had just as much need for tax reform, just as much complaint against taxes, how they are raised and how they are spent, as any of the other states not blest with its method of state control.

MORE ACCOMPLISHED ELSEWHERE

Knowing a little of human nature, I should say that the type of men who have administered state control in Indiana would not likely be improved upon in any other state, at least as to honesty and integrity. Yet, in literally scores of opportunities to make substantial reductions in public expenditures this board has been no more courageous, accomplished no more of reduction, than has been put into effect by many municipal budget-making officials, themselves, in other parts of the country. In fact, nowhere in Indiana, even in the budget-making season of 1931, when there was a greater

urge for economy in government than in years past, has there been anything like the reductions that were actually accomplished for the city of Detroit under the leadership of local officials and business and research groups, during the same year. Detroit has put into effect a more heroic restriction of public spending than was ordered by the state board of tax commissioners of Indiana for any community in the nearly three hundred appeals conducted in the fall of 1931 affecting 1932 budgets and tax rates. In the budget appeals of 1931, for instance, so far as the public was informed, in not one single case was a general salary reduction ordered. On the contrary, when this issue was raised by appellants, it was in each case neatly sidestepped by the state board. More governmental economy was accomplished for the taxpayers of Detroit by the intelligent participation of their business and research groups with the public officials in budget making than was accomplished for any Indiana community through use of the Indiana plan machinery, *i.e.*, appeal of ten taxpayers to the state tax board and review of budgets and tax levies by that body. In fact, the comparison so highly favors Detroit as to make us in Indiana seem quite inept in our struggles over the tax problem.

THIS YEAR'S REDUCTION SLIGHT AND UNCERTAIN

Mind you, this was the case in the year 1931 A.D., and of the current depression, Year 2. In that year, because we so plainly had not yet accomplished tax reduction in spite of the Indiana plan, the legislature enacted a new law affecting budgets, prohibiting any local unit of government from adopting a budget for 1932 or 1933, in excess of the budget adopted in 1930 for the year 1931. Even with that much of legislative support for tax reduction, the results of the year's efforts in Indiana are quite inconsiderable, in contrast with the whole tax levy. True, four or five millions less than in the preceding year have been levied for 1932 collections for state and local government, but the total property tax levy for 1931 was well over $165,000,000. The reduction for the whole state amounts only to about 3 per cent of the total levy.

The reduction, by the way, is in taxes collected, not in public money to be spent. No one in Indiana yet knows how the aggregate amount of all local budgets for 1932 will compare with the appropriations for 1931, but the impression of some that it will be greater for 1932 than for 1931 is probably correct. In other words, no inconsiderable amount of that tax reduction was accomplished through using treasury balances, which hitherto has made possible operation of the great majority of Indiana local units of government without temporary loans.

Perhaps, however, the actual tax levy reduction is an accomplishment not to be decried in view of the increased expenditures for poor relief that are being reflected for the first time so extensively in 1932 collections. Yet, Indiana is by no means the only state in which there has been a demand for tax reduction. That was the most popular public movement of the year. Other states undoubtedly will have as much to show for the prevailing sentiment as does Indiana. And, as pointed out above, one large city, Detroit, has a far greater accomplishment to which it can point with pride.

APPEAL TO STATE BOARD LESS EFFECTIVE

I shall perhaps make my point more plain with a few actual illustrations of the working out of the Indiana plan.

I have only one point to make, which is that the Indiana plan is no more effective, and often is less effective, than citizen participation in budget making without the privilege of appeal to a state body and right of that body to some measure of control. Others have pointed to other arguments against the Indiana plan. Wylie Kilpatrick in *New Jersey Municipalities*, for instance, has under way a discussion of this subject that presents these phases most clearly, and with most of his argument I can thoroughly agree.

Mr. Kilpatrick has set forth some of the reasons for the truth of my assertion. I would list as the more important reasons: (1) The plan almost always hinders the much-to-be desired citizen-participation in budget making by causing the local budget-making officials to feel a sense of futility in discussing their budget programs with anyone (and that includes also the state tax board). (2) It leads often to budget padding on the part of the local official, so that he shall still get what he wants after there has been state review. (3) It deprives the local official of, or gives him the opportunity to evade, responsibility for his budget, in that he can "pass the buck" to the state board; and last, and perhaps most important, the state board cannot give careful consideration in the time allotted even to a small part of the budgets appealed. This leads to unintelligent action many times.

BAD PRACTICES ENFORCED IN NAME OF ECONOMY

Tax levy reductions are ordered through the expedient of requiring working balances to be used as revenue to finance a portion of a budget, bond maturities must be refunded with new bond issues, sinking funds are robbed of their planned and necessary increments, admittedly needed regularly recurring new construction projects are required to be financed with bond issues, even to the extremity of sending the bonded debt to the very limit allowed by the state constitution, and sometimes illegal orders are issued, which may easily be and are attacked in court by the affected officials and set aside.

This calls to mind a rather famous decision of the Indiana supreme court in the city manager case. A law making possible the city manager form of government was held to be invalid because it put upon the city clerk the duty of examining and passing upon the correctness of the signatures attached to the petition for an election on the subject, which, the court held, in the case of a large city like Indianapolis, was a greater task than the clerk could physically perform. Of course, many thought and still think the clerk had authority to employ deputies to aid him in the task, which he had done. It would seem that a similar decision ought to be forthcoming from the Indiana supreme court affecting the Indiana plan of tax control, for the state tax board cannot physically perform adequately the task of examining even the very small proportion of budgets appealed to it. And the already overworked, underpaid state board recently has been compelled to assume administration of Indiana's chain store tax law.

Of course, one answer to this criticism is that the state board can delegate authority to a sufficient field force to carry out the task satisfactorily. Certainly it should be able to do so, but it does not. If the Indiana plan continues in effect in Indiana for a good many years, as it probably will, public officials and taxpayers ought to unite in seeing to it that the legislature makes possible an adequate appropriation to permit the retention of a field force

large enough to do the job thoroughly. Undoubtedly, a great deal of this criticism would be answered by such an action. Yet, there would remain the hindrance to citizen-participation in budget making, the tendency to pad on the part of local officials, the evasion of local responsibility for tax troubles, and a continual growth of resentment against the state body among almost all local officials.

Almost without exception the officials of every municipality of any size and of every county, excluding perhaps those who are quite inexperienced and have little pride in their work, bear resentment toward the state board and toward the taxpayers who take an appeal. This applies to every set of officials since the Indiana plan was enacted into law. The local officials cannot always be wrong. Where there is such a unanimity of feeling, certainly there is ground for the suspicion that the resentment does not spring from the desire to spend money recklessly or for political spoils.

SOME EXAMPLES

But to cite the few specific instances.

On one occasion, a city council fulfilled its campaign promise to police and firemen by increasing their salaries and reducing the tax levy all at the same time, through the simple expedient of cutting fixed charge appropriations considerably below the amount known to be needed, and failing to make any provision in the tax levy therefor. This meant, of course, a sizeable deficit in the following year's operations. An appeal was taken to the state board, and with all the facts adduced, it was urged to balance that budget. Under the law the board could not add to a tax levy or appropriation, but it could reduce the salary increase appropriations, and leave the levy alone, thereby producing sufficient additional revenue to make possible payment of the fixed charges in full. Did it do so? It did not. On the contrary, its action was to make no change in the appropriations whatever, but still further to reduce the tax levy, heightening an already bad situation. And why did it not reduce the appropriations? The presumption is that the issue of forbidding salary increases to this body of police and firemen had something to do with it. A little over a year and a half later that municipality issued a large quantity of bonds to fund the deficit thereby incurred. Did that tax reduction save money for the taxpayers? Manifestly, it did just the opposite.

A northern Indiana budget and tax levy were appealed to the state board by a taxpayers' association which pointed out a glaring deficiency between appropriations and revenue, and urged reduction of appropriations but no change in the tax rate. The state board issued an order partially balancing the budget and rate. When the case was taken into court by the municipality, however, the state board announced that it had decided that it had no right to reduce a budget without correspondingly reducing the tax rate, and therefore it agreed to issue a supplementary order restoring the budget to its out-of-balance state.

The Indiana plan involves control over both tax levies and bond issues. A bond issue for a large new building was appealed to the state board, the appellants believing that a material man had too weighty influence with the officials. The state board felt so, too, and ordered plans redrawn to eliminate what seemed to be a closed specification for his product. The plans were redrawn and bids were taken. The state board said they were too high, particularly for the device sold by this man. The specifications were changed

again to provide for cheapening of his device, and second bids were called for. This time, with a cheaper installation, the cost of his device was slightly increased, and for some reason, the state board weakened, gave up the battle, and permitted contracts to be awarded. The net result was a loud guffaw from the specialty man who had profited from the attack intended to clip his wings. Notwithstanding the change in specifications, no other similar device was bid upon.

MATURING BONDS ORDERED REFUNDED

The year 1931 was a year in which taxes were to be reduced in Indiana at any cost. Here is some of the cost of that tax reduction. Marion County, in which Indianapolis is situated, has a fairly good history of bonded indebtedness. Its total debt is only about half the constitutional limit, and most of it is for roads, retired serially in ten years. Yet nearly three-fourths of next year's bond maturities are to be refunded with a new bond issue, the first retirement of which shall not begin for nine years, and which shall not be completely matured for twelve more years. Included in the 1932 maturities which now must be refunded are $8,000 of an issue for the most dilapidated major bridge structure in the community, and $50,000 of refunding bonds—now to be refunded a second time. The original purpose for which the debt was incurred has become hazy in the memory of Marion County taxpayers.

Next year's tax rate was reduced 5 cents on each $100 by this means, but what of the tax rates of future years? The argument made for this subterfuge was that the federal government sometimes refunded its obligations at lower rates of interest and so could Marion County. But the maturing bonds would have been paid off, except for this arrangement, and have borne no more interest, and further, the changing bond market has required 4½ per cent bonds, whereas the average interest rate of those maturing, now to be refunded, was no greater than that rate. And here is an amusing, and possibly tragic development. The refunding bond issue of 4½ per cent failed to bring a bid and must be readvertised. This "tax-saving" idea was accomplished through appeal to the state board and loud were the pæans of praise for the tax cut.

This started a sort of fever for making tax cuts at the expense of bond maturities, so another 5-cent reduction was ordered in the school city rate by instructing the school city to reduce its annual sinking fund deposit that much below the amount required by a state law. The school city, of course, went to court and upset this order, and from the upset the state board has announced, there will be no appeal.

LOWER COURT HOLDS PLAN UNCONSTITUTIONAL

The city of Indianapolis has been using a "work for relief" plan for over a year, described in these columns recently. Those who must have public charity are given opportunity to work for it on created, useful public projects, resulting in benefit to both the unfortunate applicants for relief and to the community as well. The state board this fall ordered a reduction of $60,000 in the budget item of the park department for temporary labor. While it did not so state in the written order, yet in the public hearing, this reduction was advocated on the theory that the park department could get this amount of labor performed by charity labor and hence could "turn off" the laborers who had customarily been employed for this recurring work. A storm of protest was raised by this

reduction. The "work for relief" plan had intended that charity labor only be used on created work and not to cause the displacement of men from regular employment. In other words, Indianapolis under this order would have been compelled to turn $60,000 worth of laborers out of employment. There was no argument that this work did not need to be done.

The city of Indianapolis also went into court and upset the reductions ordered by the state board, but in this case went much further than the school city. It alleged unconstitutionality of the Indiana plan, and the trial judge held, with the city, that the law is unconstitutional. This case will undoubtedly be appealed to the supreme court, for a finding of this kind, if it stands, would put a summary end to the Indiana plan. Nevertheless, the decision will come too late to prevent the annulment of the reduction order of the state board.

The Indiana plan has been tested in some particulars in the supreme court. The corporation counsel of Indianapolis believes the supreme court has never, however, passed upon the questions he has raised. He argues against the law on the ground that the legislature cannot delegate legislative power to an inferior board, and cannot deprive a municipality of "home rule" in matters affecting only that municipality. The result, of course, will be awaited with interest, and not alone in Indiana. It is of more than passing interest that the city of Gary has ordered its legal counsel to aid the Indianapolis legal department in testing the constitutionality of the law. A capable legal department in Indianapolis will most certainly give the law a real test. If it is finally held unconstitutional there will of course be much regret. Even some of the critics of the plan will regret that there is no state reviewing body with authority to compel recalcitrant local officials honestly to balance their budgets and tax levies. No state review at all, however, would be better for Indiana than the kind that cannot *thoroughly* examine and pass upon the local fiscal problems brought before it.

Nevertheless, the wreckage of the Indiana plan would not, as many would believe, mean an era of skyrocketing taxes, and a loss of control by the taxpayers. Always they have in their votes ample control over any public problem, if they are willing to exercise such control. Every officeholder in the country today knows that his constituents want taxes reduced, and many of them will put reductions into effect in a most heroic manner. They will do so, without the threat of appeal to a state reviewing body hanging over them. They will do so more wisely and with more permanently good results if they take counsel with the taxpayers and their representatives, the organized business and research leaders. And these unofficial representatives of the taxpayers can accomplish quite as much, or even much more in the way of permanent good for their members, through participating with the officials in their attempts to solve the problems of expenditure and taxation, as if they had the machinery for appealing the budgets and tax levies to a state body for review.

The Los Angeles Bureau of Budget and Efficiency

"The Bureau is becoming the very heart of the administration"

BY JOHN M. PFIFFNER *University of Southern California*

Early in 1913 the New York Bureau of Municipal Research conducted a survey of certain departments of the city of Los Angeles, recommending, among other things, that a bureau of municipal research be established. In September of that year the council passed an ordinance creating an efficiency commission with powers to investigate the administration of the several city departments. The written examination for director was thrown open to candidates from all over the United States, resulting in the appointment of Jesse D. Burks, who had been director of the Philadelphia Bureau of Municipal Research. For more than a decade this staff agency acted in an advisory capacity to the mayor and council by means of investigations, reports, and surveys of departmental operation. With the adoption of the present charter in 1925, however, the efficiency commission was replaced by the bureau of budget and efficiency, with assured financial support independent of council action, and with a considerable share in budget operations.

The charter states that the director of the bureau shall be appointed by the mayor subject to the civil service provisions of the charter. The original appointee was Roy A. Knox, who had served as an investigator under the former efficiency commission and who still continues as active head of the bureau. A permanent staff of technicians, selected under civil service rules, maintains an entirely professional and non-political attitude toward its task. University graduates in engineering and accounting predominate, at least six being candidates for the master's degree in public administration in a local university.

The bureau of budget and efficiency is guaranteed by charter an income equal to one-fourth of a cent on each one hundred dollars of assessed valuation. This safeguard has never been resorted to, the bureau choosing to run the budget gauntlet along with the other departments.

MAYOR'S RELIANCE ON BUREAU

The bureau's work can be roughly classified into two general categories: budgeting, and fact finding not directly related to current budget procedure. In practice the bureau has become the dominant factor in the budget process in spite of the fact that its authority is wholly advisory. The preparation of the budget is the sole responsibility of the mayor, the charter merely stating that the "director of the bureau of budget and efficiency shall assist the mayor and council in the preparation

of the annual budget and in the consideration of any appropriations subsequent thereto, as set forth elsewhere in this charter, and throughout the year shall conduct studies and investigations that will assist in the preparation of the budget." The two mayors who have served under the 1925 charter have each turned over to the bureau practically the entire preparation of the budget.

The departmental estimates are sent in not later than March 15 and assigned, on the basis of departments and functions, to the different members of the staff of the bureau of budget and efficiency. There is a conscious effort to preserve the judicial attitude of the investigators by varying the assignments from time to time, so as to counteract an inevitable tendency toward sympathizing with departmental ambitions. It is thought that the budgeteer will lose his effectiveness if he comes too much under departmental influence.

The investigator eventually makes his report at a hearing before a high officer of the bureau, the budget officer of the department concerned being present. Usually a complete understanding of all concerned is reached at this time. Then comes the more formal hearing before the mayor where every item is read in the presence of the chief executive, representatives of the bureau of budget and efficiency and officers of the department to which the estimates relate. Here the latter may voice disagreement with the bureau's allowances, and the mayor has complete authority to revise in favor of the department; but both the mayor and the departments usually abide by the bureau's findings.

The mayor's budget must be in the hands of the council by June 1. There it is usually referred to the finance committee whose sessions are attended by representatives of the bureau of budget and efficiency. As a matter of fact the entire council learns to develop a rather healthy respect for the bureau, a representative of which is always present at council sessions. The council is increasingly using the bureau as a buffer on "pork" matters. Very frequently does one notice a council member arise to ask: "What does the bureau of budget and efficiency think about this?" It is largely through this growing respect for its advice on administrative questions that the bureau is becoming the very heart of administration, even though its powers are purely advisory and even though there is no integrated administrative authority to whom it is directly responsible. Students of public administration might well ask whether an independent staff agency of this kind is not the logical solution to many administrative difficulties in those cities which are unwilling to adopt integrated charters.

THE COUNCIL FOLLOWS THE BUREAU

The council usually passes the mayor's budget with very slight changes. The 1930–1931 budget was based on a revenue estimate derived from the previous year's assessed valuation. Before the council had given complete consideration to this budget it became apparent that the county assessor would make reductions in real estate values which, if taxed at the old rate, would decrease the city's revenue by more than one million dollars. The city council made political capital of the mayor's failure to take cognizance of this in the estimate of revenues and passed a provisional budget with execution under its own control. The director of the bureau of budget and efficiency protested that revenue would be sufficient to defray appropriations under the mayor's budget, and ex-

perience later substantially justified this assertion. The net result was that the council spent in excess of the mayor's budget, and in so doing spent more than the year's revenues. The deficit was paid by tapping and reducing a surplus fund exceeding $5,000,000 and created from savings of former years to cover the period when no taxes are coming in. The building up of this reserve fund is a matter of considerable pride to the bureau; its depletion would necessitate the registration of warrants between July and November, and this spectre is the bureau's constant weapon to restrain the council from passing appropriations in excess of revenue.

The Los Angeles city council is elected for a two-year term, all members retiring at once. This frequently results in a new council being composed largely of members serving for the first time. During their first budget year they will be inclined to take budget matters into their own hands; but as they come to see the need for central coördination in matters of expenditure they learn to defer to the bureau. The result was that the mayor's budget for 1931–1932 was passed, practically without change, by a vote of 14 to 1. Less than a month thereafter, however, a majority of new faces entered councilmanic seats.

The bureau of budget and efficiency does not possess charter authority to exercise current budget control. Appropriation accounting is in the hands of an elected controller who pre-audits all purchase orders and pay rolls. Budget control is therefore accomplished under a quite detailed classification of expenditure contained in the appropriation ordinance. Although both a budget and an appropriation resolution are published, there is no distinction between them as to detail, one simply being the mayor's proposals and the other containing the same items as finally approved by the council. Hence the real control is established by the bureau in setting up the original segregations in the mayor's budget. While budget control through segregated appropriations is not favored by such authorities as Buck,[1] it is difficult to see how it could be otherwise where administrative authority is so divided as under the Los Angeles charter.

SURVEYS BY THE BUREAU

The second main field of activity for the bureau is concerned with fact-finding surveys and investigations not directly pertaining to the current budget. Thus surveys have recently been made of the city clerk's office, harbor charges, the playground and recreation department, and the department of water and power (the latter three are non-budget departments). Recent investigations conducted by the bureau have resulted in the location of the municipal airport, the establishment of a police printing bureau, the creation of a bureau of right-of-way and land, and central control of municipal equipment. On moving into the new city hall in 1928 the departments requested $196,000 worth of steel filing equipment which was considerably in excess of the allotment. The board of public works called upon the bureau to investigate the actual needs with the result that current requirements, together with room for much future expansion, were provided for $89,100, or $106,900 less than at first estimated. That saving alone paid the bureau's way for more than two years.

[1] *Public Budgeting*, pp. 127–135.

Special Assessments and City Planning

How a budgeted city plan aids in the administration of special assessments

BY PAUL A. BANKSON, *City Plan Engineer, New Rochelle, New York*

THE methods of special taxation commonly employed are the greatest obstacles to the prompt execution of needed public improvements. If property owners are not to be overburdened, if business is to go forward at the opportune time, if traffic relief is to be attained, it is most important that a well defined plan be followed. If the big schemes of improvements in cities, running into millions of dollars, are to be carried out, great care must be paid to the financial program, for the cost of these improvements to the city at large is reflected, not in the general tax rate alone, but in the amount of money which the property owner is called upon to pay. No special assessment plan can be successful unless coördinated with the general tax scheme.

If special assessments are simply pieces of guess work, if no attempt is made to adjust them to the various blocks, districts, or zones, they may be unreasonable, "for 'reasonable' means that there has been a genuine attempt intelligently to work out" a plan. Just as a true zoning ordinance is comprehensive, districts being selected by virtue of certain considerations, and as a real city plan is comprehensive providing for all foreseen needs, so should special assessments be comprehensive, based on established municipal policy. But as no zoning ordinance is workable without its "safety valve" and no city plan is justifiable unless flexible, so no rules for defining areas and amounts of special assessments are of any value unless adjustable to specific conditions.

Too often city councils arbitrarily fix a per cent benefit within a fancied area. Afterward the area within which the assessable share must be distributed is defined, possibly without rhyme or reason.

All improvements and the assessments therefor should be part of a definite program of improvements within a budgeted city plan. The initiation of projects should come from a planning board or similar department working in harmony with a budget commission. Such procedure will tend to insure an orderly program. Where a city plan is closely followed its influence can be forecast and property owners can prepare in advance for the programmed improvements.

CAREFUL SURVEYS NEEDED

Before any improvement project is initiated, both economic and physical surveys should be made to determine its need and whether the benefited property owners can bear their proportionate shares. From the physical

survey a fairly accurate estimate of cost can be made. From the economic survey the ability to pay and the probable benefits can be arrived at. Heavy special assessments may undermine the property owner's ability to pay his general tax. Only by the most careful and controlled planning and zoning can possible future values be predicted. Even when so controlled, there is no absolute assurance that development will follow the prescribed course.

The cost of land takings, building values and leases should be carefully ascertained through negotiations with owners. Real estate boards are usually willing to coöperate, with the result that the estimated cost compares favorably with the actual. It is suggested that at least three independent valuations be had for comparison. Where improvements are planned over a number of years a permanent appraisal committee is recommended.

The cost of physical construction of the improvement should be estimated by the engineering or public works department. Excess condemnation should be resorted to where remnants of lots of odd shapes and sizes remain, where their existence operates to prevent equitable distribution of assessment. Benefits which should accrue to surrounding property from the improvement are actually not received until such remnants have been united with adjoining lots.

AREAS OF BENEFIT FOR STREET IMPROVEMENTS

In cities in which planning commissions are functioning the official map and comprehensive plan serve as an excellent guide in determining the area of assessment.

When the benefit from street improvements is strictly local the assessment area may be limited to one-half block on each side of the improvement. If the benefit is more than local the assessment area may extend to a line midway between the improvement and the nearest parallel street of equal or greater width, or to a line which is the midpoint between the improvement and the nearest parallel street shown on the official map to be improved, or to the boundary of the assessment district of the last mentioned street. Should property opposite the ends of such street or streets be benefited the area should be extended to include it. In general, areas of street benefit should be limited by distances of 1,000 feet and by natural and artificial barriers. Streets already assessed for recent improvements should be given due consideration. Overlapping of assessment districts should be avoided.

In street widenings it should be remembered that when a street reaches a certain width it also reaches its maximum benefit to property frontage. Additional width then should be charged to the area beyond if the benefit is evident, or to the city at large, or both. In the larger cities sixty feet seems to be a generally accepted width for local streets but in many of the smaller cities fifty feet may be more desirable.

If a new street is for purely residential use, abutting property owners should probably pay all. Private developers figure costs to include lots, streets, utilities and carrying charges against which is placed the sale price of lots. If a street is a main artery of traffic or develops into one by reason of the improvement, the excess cost due to the increased width over and above that needed for local use should be spread over the district benefited, which may be a general benefit. If paving specifications are affected by contemplated heavy traffic, they may indicate that it is a through street and

that not all should be assessed locally. The construction of a major highway is a benefit to a whole community and this is particularly true when state or county aid is obtained. The cost of by-pass streets can often be assessed on the traffic streets that are thereby relieved.

On an official or comprehensive map is, or should be, shown the intention of extending, widening and creating new streets. In the congested business sections of a city these projects are apt to be near each other. In such event the area of benefit may extend from one improvement to the next one. Usually, close scrutiny of an official map and the data from which it was evolved will suggest boundary limits. Ofttimes a thoroughfare improvement will relieve a nearby street of congestion and even permit one-way streets to be used as two-way. These conditions indicate that one improvement may involve several assessment districts, each one having a different percentage of benefit. Here again, the city plan will disclose the method of approach in arriving at a levy.

Zoning, too, has a bearing on the case. A new street may traverse various zoning classifications. If its purpose is to permit business to expand and changes in zoning classification are necessary, benefit may be evident. On the other hand, if its purpose is traffic relief, it may destroy residential character rendering the land available only for business, but at a time when business should be curtailed rather than expanded.

School (private or public), church, institutional, city, state or government lands should not be excluded from an area of assessment if they properly come within it, for "the benefit resulting from a public improvement inheres in the property affected." By granting such exemptions an unwarranted additional financial burden is placed on the area.

Parks confer general benefit upon all citizens and ofttimes special benefit upon owners of real estate in their immediate vicinity. Playfields, neighborhood parks, large and special parks are provided in city plans in relation to walking distances and density of population. When thus planned each neighborhood should bear its special tax. Experience has shown that where parkways and boulevards have been constructed adjoining land has been greatly enhanced in value.

DETERMINING THE ASSESSMENT

There are two methods of determining the assessment—direct and indirect. In the first, the present value and then the enhanced value are determined, the difference being the amount of benefit. In the second a percentage of benefit is arrived at and later distributed into zones. Although it is usual to express the assessable share as a function of the cost, it is most desirable that the actual benefit be first determined for each zone and the proposed levy stated in terms of percentage. The distribution is composed of two parts; allotted amounts or percentage by zones, and individual lot distribution within each zone. Having established the assessable share, the next step is to determine its distribution.

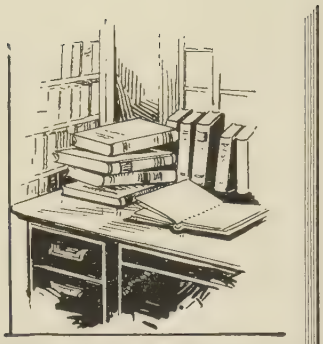
Several factors enter into the problem of determining this distribution. In the first place, if the city is operating under a budgeted program—as it should—that program itself usually shows how the cost of the project should be divided between the specially benefited property owners and the city at large. Thereafter, the allocation of the assessable share among the parts of the assessment district should be made with an eye to circumstances within the benefit district itself. For example,

the district as a whole may be divided into blocks or zones, each of which contains lands of like character similarly used or adaptable to the same uses. In other cases, it may be desirable to take additional factors into account. A given street widening, for instance, may pass through a series of fairly distinct districts, characterized by high costs of land takings at one extreme and low costs at the other. There may therefore be an advantage from the standpoint of equitable distribution in apportioning the assessable share of the costs of land takings within such a district to the lands within the district itself.

The method to be followed in the distribution of assessable costs to the individual lots within each zone may be greatly simplified in cities where land is valued annually for general taxation by an adequate unit system. In such a system, the area, depth, frontage, shape, corners and topography have already been taken into account in the establishment of the taxable values of individual parcels. The assessable share of the cost allocated to a given zone or district, divided by the total assessed land valuation of the same zone or district, gives the tentative rate for each parcel. Multiplying the assessed land value of each parcel by this rate determines its assessable share. This method expresses the levy in dollars and cents with mathematical precision. This amount may be reduced to front footage for purpose of comparison. Using assessed valuations to determine a rate is merely a continuation of an established principle. It avoids duplication of effort and insures uniformity.

In case the zone includes more than simply the lots abutting on the improvement, it is a relatively simple matter to adjust the rate computed in the manner just described so as to make the nearer land pay more than the distant land. If a uniform rate is to be used throughout the district, the assessment may be plotted as a rectangle whose height represents the rate, and whose base is the *length of the affected area* representing the valuation at which the land is assessed for general taxes. If, on the other hand, the rate is to be diminished to zero at the boundary of the district, the figure becomes a triangle whose height is twice the uniform rate needed to produce the same amount when applied to the base. The rate, then, at any point is inversely proportional to its distance from the maximum.

The levies produced by the application of the rates derived in this manner to the assessed valuations of the individual properties are merely tentative. Estimates of present true values and of future values after the completion of the improvement, may be obtained from realty boards, banks and mortgage companies. The differences between the estimated present and future values represent fair and unbiased estimates of probable enhancement, against which to check these tentative levies. If the individual levies produced by the method outlined are less than these estimated enhancements, it may be assumed that they are just. If they are more, they should be revised downwards until they reach the point where, so far as endeavor can prognosticate them, they express in dollars and cents the benefit derived. It is always safer to keep the levy below the full estimated benefit.



RECENT BOOKS REVIEWED

International Housing Congress, Berlin, 1931. —Congress Publication 2, Reports from Various Countries on the Main Theme of the Congress: "The Social Importance of Housing Now and in the Future." The United States section was contributed by James Ford and John Ihlder. Congress Publication 3, General Report on Topic I by Senator F. M. Wibaut. Congress Publication 4, General Report on Topic II: "The Building of Small Dwellings with Reasonable Rents." Congress Publication 6–7, Discussion of the Topics.

The International Housing Association succeeded previous organizations and held a congress in 1931, of which these documents are the background and record. Over 900 attended the congress. We note with special interest the remarks of H. S. Buttenheim, delegate from the United States, who clearly stated the problem: In part, housing costs are higher than they ought to be and in much larger part wages are lower than they ought to be. "Subsidized housing is really subsidizing low wages."

The International Housing Association, with offices in Frankfurt a/M, Germany, offers readers of the NATIONAL MUNICIPAL REVIEW the complete set of seven publications at 25 per cent reduction or 15 marks, postpaid.

ARTHUR C. COMEY.

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BEAT 'EM OR JOIN 'EM. By Clement G. Lanni. Rochester Alliance Press, Inc., Rochester, New York, 1931. 356 pp. $3.00.

This book covers the political history of Rochester from 1925 to 1930 during which period the city manager form of government was adopted. The object of the book is stated in the preface, as proving certain theses, such as, partisan politics is the only practical method of governmental control; nonpartisanship is but another name for a political party of malcontents; all effort toward nonpartisanship is doomed to failure, and similar ideas. The preface says the account is unbiased, but a reading develops a questionable interpretation of this word. The use of the argot of the ward heeler produces an impression that the brave predictions of observers that politics are growing better, does not apply to Rochester where political action apparently still remains of the vintage of Boss Tweed.

The old blurb, "travel does broaden one" is given another chance for life by this account. Had Mr. Lanni journeyed to Detroit, let us say, he would find that nonpartisanship is actual, real and workable. He would find no political bosses, no political parties for local elections and even no ward organization for any kind of election, but still the city enjoys an excellent government, just as Rochester is said to enjoy. Further, he would find that Detroit was not always so blessed for once it had political organized effort for controlling elections but public spirited citizens during the upheavals surrounding the great war, caused innovations in the municipal government which laid the political leaders to rest forever.

The book rather implies that it was just pure luck that the city manager government came to Rochester and it is still more luck that it remains. Among the numerous deficiencies in the treatment of the subject, is a lack of an honest appraisal of the work of the city manager in all departments of the city government, which would have been valuable as Mr. Lanni repeatedly makes it apparent that he sees political life through Republican organization spectacles.

To an undergraduate brought up in a section of this country where politics is not taken so seri-

ously, this book will give an insight as to how some people must select their city administrations. Also, to those merry-andrews who believe that the spectre of a boss-ridden city is forever dead, this book will prove an awakening. But to the average person interested in progress in government, the book offers little except to confirm the opinion that political parties are tumors on the body politic, standing against progress in municipal affairs, and with more interest in maintaining their organization through patronage than in newer methods for a newer day.

The title is the slogan of a former political boss of Rochester.

J. M. Leonard.

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Criminal Justice in Virginia. By Hugh N. Fuller. Monograph No. 10 of the University of Virginia Institute for Research in the Social Sciences. New York: The Century Company, 1931. 195 pp. $2.25.

This is a study of all the criminal cases dealt with in the circuit courts in twenty-six counties and one city, plus corporation courts in seven additional cities, in the years 1917, 1922, 1927 and 1928. The localities were carefully selected to produce average results for the state. The study has yielded seventy tables and there are forty-five illustrative graphs. For this sampling purpose the crimes charged were distributed under sixteen classifications. It is impossible to secure figures strictly comparable with those obtained in any other state. The restriction of the survey as above stated was made necessary by the very limited fund available. The causes for crime and virtually all consideration of the kinds and consequences of punishment were excluded.

The statistical material was supplemented with opinions submitted by more than 120 judges, magistrates and prosecutors. Of the eight chapters, one is devoted to official opinions and one to "indications," a title chosen expressly to negative the suspicion that any dogmatic views were held by the investigators or editor.

With only $10,000 to work with it is surprising that the survey should afford such an excellent body of facts and material for further planning. The report shows that practical judgment of a high order and effective economy of effort were available at all stages.

The figures reveal a great increase in crime in eleven years; that suburban areas tend to resemble the cities; that there is virtually no delay because of congestion in the trial courts; that liquor cases are increasing and that juries mete out penalties much smaller than legislators intended; that pleas of guilty, resulting in reduced penalties as compared with convictions, are materially increasing; that owing to this latter fact and the increase of indulgence in the motion to nolle pros., the prosecutor has assumed an importance in the scheme of criminal justice not realized until such surveys were made. Having no power of sentencing, the judges exert less influence than they might, and juries are used less and less. Administrative justice is usurping the field of judicial justice. Crime increases, not in wave form, but as a slowly rising tide.

This factual and concise study should result in concerted effort to give the bench of Virginia unified power and responsibility, to improve procedural rules at certain points, and to insure talent and long tenure for prosecutors. It should at an early date result in a thorough system of recording data. The state judicial council, as the author evidently believes, marks a beginning. The study is useful to inform the entire country as to the situation in a fairly typical state. It is to be highly commended for its realistic quality.

Herbert Harley.

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A Personnel Program for the Federal Civil Service. By Herman Feldman. U. S. Government Printing Office, 1931. 289 pp. 30 cents.

This report is the fourth and last of the series issued by the Personnel Classification Board under the mandate of the Welch Act of 1928 which called for a survey of the Federal field service. Dr. Feldman, professor of industrial relations at Dartmouth College, served as economic adviser to the board. In the book he outlines the principles of personnel administration he believes the federal government should follow.

Part one deals with problems of government wage policy. Aspects discussed include the historical development of a wage policy, the necessity for classification of positions in the field service and lessons to be learned from the classification of the Washington service, salary adjustments to local living costs, economic principles to be considered in determining salaries, and salary increases and incentives.

Part two is much broader in scope and deals

with the whole problem of personnel administration, both in Washington and in the field. Selection and placement, efficiency, grievances, group representation and employee coöperation, and organization for the administration of personnel work are considered. Among other considerations, Dr. Feldman calls for the inclusion within the merit system of many positions now unclassified, greater attention to placement of new employees, machinery to facilitate transfers within the service, greater care in the selection and training of supervisory officials, training of employees, and improvement of working and safety conditions.

The closing recommendation, which is strongly emphasized, advocates that the machinery of federal personnel administration should be reorganized to bring the work under a centralized and unified personnel agency.

The chief value of the report lies in the success with which the author has been able to present an inner view of the federal service. Thus he is able to realize the weight of matters seemingly of minor importance but actually of great consequence. While many of the recommendations are not new, the author's approach and analyses are quite individual and highly enlightening. Like the other Personnel Classification Board reports, this one deserves commendation in that it thoroughly considers governmental personnel administration in comparison with private practices.

JOHN THURSTON.

University of Minnesota.

REPORTS AND PAMPHLETS RECEIVED

EDITED BY EDNA TRULL

Municipal Administration Service

Setting Up a Program of Work Relief.—Joanna C. Colcord. Russell Sage Foundation, 1931. 23 pp. The Russell Sage Foundation has in preparation a book on emergency work relief based on studies of thirty cities in the fall of 1931. It will deal with the development of this type on relief and will give reports on the separate city projects besides the material presented in this pamphlet. The study of current practice by the experienced director of the Charity Organization Department of the Foundation is extremely useful. It is a simple and direct analysis of the factors entering into the organization and administration of relief on the basis of work done for the community with specific suggestions as to what will probably be the most successful and valuable methods. (Apply to Russell Sage Foundation, 130 West 22nd Street, New York City. Price, 25 cents.)

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The Organization and Administration of Public Relief Agencies.—Rose Porter. The Family Welfare Association of America, 1931. 64 pp. The organization of many new public relief agencies has brought to the fore fundamental problems of principle and practice. In order to utilize the best current thought in the field, the President's Committee asked the Family Welfare Association to prepare "a guidance report" or handbook. A Pathfinding Committee on Study of Governmental Relief Methods directed the study which is now offered. After a brief introduction to the subject, the author deals with the organization of the public relief agency, its service to families, personnel, methods of administration, local and national relationships and resources and education on its work as well as for the prevention of dependency. The study should be useful for newly organized relief agencies who need to discover the best methods of administration and also to the older ones who are finding this emergency necessitates reorganization to take advantage of the best modern practice. (Apply to the Family Welfare Association of America, 130 East 22nd Street, New York City. Price, 35 cents.)

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Municipal Work Relief for the Unemployed.—American Society of Municipal Engineers, St. Louis, 1931. 56 pp. The rapid development of the work relief idea has created problems for municipal engineers. At their conference last fall an open forum session was devoted to a discussion of them. Reports of the work in several cities were given. Principles of relief on the basis of work, and federal aid were also treated. (Apply to American Society of Municipal Engineers, 4359 Lindell Building, St. Louis, Missouri.)

Municipal Motor Transportation.—Glen Leet. Norfolk, 1931. 65 pp. Norfolk's experiments with various methods of providing its employees with motor transportation warranted careful comparison. The history of these, with their good and bad aspects, is considered and recommendations made for future action. Practices in other cities are used to illustrate subjects such as the basis of reimbursement for the use of privately-owned cars. Forms are proposed for municipal motor equipment records, and important tables of general interest are included. The study should realize the author's hope "that the experience of Norfolk will be of some service to other municipalities." (Apply to the Office of the City Manager, Norfolk, Virginia.)

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Proceedings of the First Annual Meeting of the American Association of Public Welfare Officials.—Washington, D. C., 1931. 60 pp. In 1930 a group of those engaged in public social work organized this Association to facilitate the exchange of experiences and the advancement of their common interests. This Association met for the first time in 1931 in connection with the National Conference on Social Work. Papers on various aspects of governmental social welfare work were presented and are here published as a reprint from the Social Science Review. (Apply to American Association of Public Welfare Officials, 1800 E Street N. W., Washington, D. C.)

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Funds Received by Wisconsin Cities and Villages from State Aids and State Taxes.—League of Wisconsin Municipalities, 1931. 11 pp. Sources of income from the state for cities and villages are listed under 17 separate headings which may be classified as income, utility, terminal, telephone and highway privilege taxes, fire insurance dues and state aid for local streets and various types of state aid for education. This bulletin indicates also when the local treasurer should receive these funds and the basis on which they are distributed. (Apply to the League of Wisconsin Municipalities, 114 N. Carroll Street, Madison, Wisconsin. Price, 50 cents.)

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Summary Report of the Mayor's Advisory Commission.—Chicago, 1931. 9 pp. with charts. Mayor Cermak has submitted to the Council the report and recommendations of the Survey Committee of which J. L. Jacobs is secretary. The study of departmental organization, methods, services and costs has revealed that $22,150,000, or over 18 per cent of the present appropriation, could be eliminated by action of the City Council. Roughly half of this can be saved in the cost of operation, maintenance, and construction; the other economy depends upon careful planning, standardized specifications and close supervision over contract expenditures financed by special assessment and bond issues. Acting upon the theory that tax relief is dependent upon responsible and improved management and vigorous economy in operating and capital expenditures without sacrifice of efficiency or public service, the Commission recommends the elimination of unnecessary positions and employees, consolidation, reorganization and coördination, a centralized purchasing system, simplification of administrative and office methods, more effective civil service administration, a more effective financial control with simplified reporting on municipal services, costs and expenditures. Detailed reports and ordinances to effect recommendations made are under consideration by the Council. (Apply to Office of the Mayor, Chicago.)

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License Taxes on Automobile Dealers, Garages, and Filling Stations.—League of Virginia Municipalities, 1931. 14 pp. The director of the Municipal Reference Bureau, Harold I. Baumes, has continued his study of license taxes and reports on specific charges made on automobile dealers, garages, and filling stations in each municipality of the state. The range is from $5 to $125 on dealers and garages, and from nothing to $25 a pump for gasoline stations. (Apply to League of Virginia Municipalities, Travelers Building, Richmond.)

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Code of Ordinances of the Town of Rainelle, West Virginia.—Morgantown, 1931. 95 pp. In April, 1931, the council of Rainelle in the county of Green Briar voted to have their ordinances revised and codified under the supervision of the Bureau for Government Research of West Virginia University (of which John F. Sly is director). The code, arranged, authenticated and published, is an example of the desire of a small community (population 920) to have its ordinances in up-to-date and usable form. (Apply to the Recorder, Rainelle, West Virginia. Price, $1.50.)

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE, *Professor of Law, New York University*

THE NEW JERSEY RIPPER BILLS

A REVIEW OF THE DECISION OF THE COURT OF ERRORS AND APPEALS IN McCARTHY v. WALTER

BY SPAULDING FRAZER

Reversing the Supreme Court (107 N. J. L. 223, 152 Atl. 175), the Court of Errors and Appeals of New Jersey in the case of *McCarthy* v. *Walter* (9 N. J. Adv. Rep. 548, 156 Atl. 772) appears to have markedly changed New Jersey law in relation to the right of the court to inquire into the constitutionality of statutes in quo warranto proceedings brought at the instance of a private relator to which the corporate entities whose constitutional existence is thus attacked are not parties.

Two actions were instituted by five private relators claiming to be park commissioners appointed by the governor under the authority of Chapter 261 of the Laws of 1930. Under a law enacted in 1888, the board of chosen freeholders in any county is authorized to determine the advisability of laying out a highway or boulevard and to submit, upon such determination, the question as to whether such boulevard was to be laid out, to the voters. Under an amendment in 1898, the powers in regard to the boulevard thus established by vote of the electors were transferred to a board of three boulevard commissioners elected at large, no more than two of whom should be of the same political party. This act was adopted by the people of Hudson County, and its constitutionality sustained in the case of *Noonan* v. *Hudson County* (51 N. J. L. 454, 18 Atl. 117; 52 N. J. L. 398, 20 Atl. 255).

In 1902 the so-called Hudson County Park act was passed, which also provided for its becoming effective upon its submission to the voters through resolution adopted by the board of freeholders. This act provided that the freeholders should appoint a bipartisan board of four members, who should have control of the parks in the system. This act was also adopted by Hudson County, in which alone the provisions of either of the acts became operative.

In 1930 the legislature adopted three acts, popularly known as the Hudson County Ripper Bills, the first of which, Chapter 260, abolished the offices of the park board, the second of which, 261, abolished the offices of boulevard commissioners, and placed their functions in the board of park commissioners, and the third of which, Chapter 262, provided for the appointment by the governor of a park commission of five persons, no more than three of whom should be of the same political party.

The commissioners, both boulevard and park, whose offices were abolished by Chapter 260 and 261 respectively, refused to cease the exercise of their functions, and the new gubernatorial park commissioners thereupon proceeded in two actions in quo warranto to attempt to establish their title to exercise these functions, bringing

the action under Section IV of the quo warranto act, which allows anyone claiming to be lawfully entitled to a specific office to file an information in the nature of a quo warranto without the intervention of the attorney-general and without leave of the court against the alleged intruder.

The Court of Errors and Appeals held that proceedings under this section would lie only where there was identity of office, and that therefore the action might not be maintained by the new commissioners against either the former boulevard or park commissioners since the new office attempted to be created, combining as it did the functions of the two earlier boards, lacked that identity essential to an information by a private relator. A leading case in support of this contention was that of *Morris* v. *Fagan* (85 N. J. L. 617, 90 Atl. 267) in which the city clerk under the commission government act was held not to be an identical office with the office of city clerk under an earlier charter form of government. The opinion in this last mentioned case was written by Chief Justice Gummere, who in the case of *McCarthy* v. *Walter*, sat in the Supreme Court which sustained the right of the relators in the instant case to maintain an information. In view of the earlier decisions, the conclusion of the Court of Errors and Appeals in this regard would seem to be sound.

On this phase of the case, however, the higher tribunal was not content to rest alone upon this procedural ground, but saw fit to take under consideration the question of the constitutionality of the Park Act of 1902. On this phase of the matter the Supreme Court had held that, neither the park board nor the boulevard commission being parties to the action, the de jure existence of those bodies might not be called into question, such a right being a prerogative of the state through the attorney general. This view, which seems to be supported by competent earlier authority (*Ayers* v. *Newark*, 49 N. J. L. 170, 6 Atl. 659; *Dodd* v. *Camden*, 56 N. J. L. 258, 28 Atl. 311) proceeded to consider the constitutionality of the act from the standpoint of the referendum provision requiring action by the board of freeholders before submission to the voters, relying as to major authority upon the case of *Attorney-General* v. *McGuinness* (78 N. J. L. 346, 75 Atl. 455), which held that if any will other than the legislative will was to be interposed between the enactment and taking effect of given legislation, it should be the will of the people and not an alien will even though it might be that of the governing body of the local municipality. This case arose under the construction of the state civil service law which might, as originally drafted, be adopted either on a referendum or by resolution of the governing body alone, and it was in relation to such an adoption by the governing body alone that the cause came before the courts. It is therefore clear that for the decision in that case, it was not necessary to pass upon the propriety of a referendum which required before its submission to the people a preliminary resolution of the governing body. While it may be cogently argued that were this situation one of a novel impression the requirement of a preliminary resolution by the governing body as a condition precedent to submission to the people might involve the interposition of a foreign will between the legislature and the people contrary to the expression in *Attorney-General* v. *McGuinness*, *supra*, the matter was not one of novel impression in the New Jersey courts.

The opinion in the instant case sought to distinguish certain of the earlier cases. One of these cases is that of *Noonan* v. *Hudson County*, *supra*, in which the constitutionality of the Hudson County Boulevard act was questioned. A careful reading of this decision would indicate that the court had before it the rather broad question of the power of the legislature to refer such questions to the people rather than the question of the intervention of the will of the governing body as a condition to such reference. The leading case relied upon was the early decision in *Paterson* v. *Society* (24 N. J. L. 385) wherein the broad question of referendum was discussed and the power established. That the court in the Noonan case referred to the boulevard act as a road act and to the practice of reference in such cases as having been in vogue prior to the adoption of the constitution does not seem a satisfactory basis of distinction between that act and the park act, which in itself is in the nature of a road act. However, it must be admitted, although this phase does not seem to be stressed in the court's opinion, that the grant to the board of freeholders in the boulevard act might be construed as a grant of power limited, however, by the requirement that its exercise could be full only upon the concurrence of the voters, so that it is arguable that the act was "legislative" rather than of "referendum" nature in accordance with the classification established in *Attorney-General* v. *McGuinness*.

Such reasoning, however, does not apply to the case in re Cleveland (51 N. J. L. 319, 18 Atl. 67) where provisions for the acceptance of a new municipal charter required the intervention either of the governing body or of the mayor under the theretofore existing form of government. The charter in this case was clearly a pure referendum act and required for its effectiveness not merely the vote of the people but a preliminary resolution or proclamation of existing municipal officials. It would seem that this case in principle is indistinguishable from the Hudson County Park act, if that act be considered as a pure referendum statute, while if it be considered as granting legislative power the same conclusion would seem necessarily to follow under *Noonan* v. *Hudson County, supra.*

After coming to the conclusion that the Hudson County Park act was unconstitutional, the court proceeds to the consideration of Chapter 261 of the Laws of 1930, which abolished the offices of boulevard commissioners and vested their functions in the park commission. Again the conclusions at which the court arrived seem to be sound in holding this act special legislation. A brief analysis of its operation in conjunction with the simultaneously adopted other acts makes it clear that it can apply to Hudson County alone despite the broad titles of both the original park and boulevard acts making them applicable to any county wherein they may be adopted. Under the combination sought to be effected by the so-called ripper legislation, it was no longer possible for any county to take advantage of Chapter 261 in the same manner and to the same extent that such act would be operative in Hudson County unless the voters of another county should vote affirmatively for the establishment not only of the boulevard, but of the park system as well. It is therefore not so much from the standpoint of the result as from the unusual chain of argument which the court uses before coming to the consideration of unconstitutional features of specialness that the opinion is open to objection.

Thus at page 558 the court points out that the effect of the legislation is to substitute "a politically dominated board for the theretofore bipartisan park board" and that a similar effect is had on the boulevard commission. Such matters we have always conceived to be matters of policy for the determination of the legislature and to be quite beyond the competency of the courts, provided they did not transcend constitutional inhibitions. Surely if the courts may enter into the questions of motive, whether political or otherwise, actuating the legislature in the adoption of otherwise constitutional legislation, the principle of the coördinate rank of the various governmental departments must fall. But that the court in this instance assumed such a right appears conclusively from the paragraphs immediately following those above referred to. It indicates that the purpose, as well as the effect, of the legislation under consideration is the destruction of the principles of local self-government and home rule, and immediately follows with the statement, strongly affirmed in *Attorney-General* v. *McGuinness*, that such principles are not guaranteed or secured to the citizens by the constitution. If such be the law of the state, as it undoubtedly is, this inquiry is wholly beside the point, and the later suggestion that this local self-government and home rule are sought after, demanded and zealously defended, seems equally irrelevant. Following this excursion, the court by clear inference asserts to itself the right to inquire into the bona fides of the legislature, and implies that only when this bona fides is present is the law as stated in a quotation from *Attorney-General* v. *McGuinness* applicable. This implication is forced home by this remarkable paragraph:

> When, however, statutes of the character of those before us, framed for the purpose, with the design, and having the effect of evading, or, *being by the merest technicality*, an obedience to, and observance of, constitutional requirements and mandates, come before the courts for their approval as constitutional enactments, the duty of the courts is that "they should not be astute to suggest or countenance nice distinctions . . ." in order to uphold and support such legislation. (Italics ours.)

It seems quite obvious from this line of reasoning, which in the ultimate throws no light whatever upon and was wholly unnecessary to support the conclusions subsequently arrived at, that Chapter 261 of the Laws of 1930 was unconstitutional as special legislation, that the court gave expression to sentiments wholly unjudicial in character and quite beyond the proper scope of judicial inquiry.

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Insurance of Drive-It-Yourself Cars.—Regulation of Driverless Cars—The Supreme Court Upholds Ordinance Requiring Auto Renting Corporations to Insure against Liability of Drivers.—The Supreme Court on

January 4 affirmed the judgment of the Supreme Court of Ohio in *Hodge-Drive-It-Yourself Co.* v. *Cincinnati*, 123 Ohio St. 284, 175 N. E. 196, reported and discussed in the April, 1931, issue of this REVIEW. In a short opinion by Mr. Justice Butler, 52 Supreme Court Reporter 144, the court calls attention to the fact that the basis of the ordinance is the power of the city to prescribe reasonable regulations of the privilege of using the public highways for profit. Having previously sustained the constitutionality of statutes requiring similar bonds from owners operating vehicles upon the highway in the enjoyment of their common right (*Packard* v. *Banton*, 264 U. S. 140), no serious question of the application of the police power was before the Court. As there was nothing on the face of the ordinance or in the record to warrant the conclusion that the classification was capricious or arbitrary, the claim of repugnancy to the equality clause of the constitution was held to be without foundation.

✻

Annexations and Debts.—REFUNDING BONDS —NOT SUBJECT TO REFERENDUM. ALL LANDS ANNEXED BECOME SUBJECT TO PREËXISTING DEBTS OF CITY.—The Supreme Court of Florida in *State* v. *Miami*, 137 So. 261 holds that the state legislature has unlimited power to subject annexed territory to preëxisting debts of a city, notwithstanding that statutes in force at the time of annexation provided that no such liability should be imposed. The appeal was from a decree validating four issues of refunding bonds of the city of Miami, from which the inhabitants of the former city of Cocoanut Grove and the towns of Buena Vista and Silver Bluff, all annexed in 1925, claimed immunity.

In holding that the statutes in force at the time of annexation gave rise to no contractual rights as against the power of the state to modify the immunity thus assured, the court affirms the plenary power of the state legislature to allocate the existing assets and liabilities of municipalities upon the annexation or disannexation of territory, whether at the time the boundaries are changed or later. Whatever rights holders of the bonds may acquire under such acts, so far as the city or the taxpayers are concerned, any provisions that have been made are subject to later legislative modification.

In 1930 Florida adopted an amendment to its constitution (Art. 9, sec. 6) making the issuance of bonds by counties, districts or municipalities subject to an approval of the majority of votes cast in an election held for that purpose in which a majority of the resident voters shall participate. The amendment, however, expressly excepts bonds issued exclusively for refunding bonds outstanding and the accrued interest thereon.

✻

Implied Powers.—BUILDING REGULATIONS—CONTROL OVER INSTALLATION AND OPERATION OF PRIVATE HEATING SYSTEMS.—The doctrine that the implied powers of a municipal corporation can go no further than what is essential to carry out the express powers has been nowhere more strictly applied of late than by the courts of Illinois. Partly as a result of this position, the legislature has enacted statutes specifically conferring broad police powers in many cases. In *Chicago* v. *Wonder Heating & Ventilating Systems, Inc.*, 178 N. E. 192, the power of the city to pass an ordinance regulating the installation of warm air heating furnaces without complying with stated specifications and obtaining a permit from the commissioner of buildings was before the supreme court of the state. The ordinance further requires the owner to file a bond and to pay an annual inspection fee and imposes a penalty of from fifty to two hundred dollars for each day any violation continues.

In sustaining the ordinance the court affirms a report made by Commissioner Partlow and adopts his opinion, in which is set forth section 63 of article 5 of the Cities and Villages Act empowering the city council "to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers," etc. Under this broad power, the ordinance is declared valid and the fees and penalties imposed are found to be reasonable. The construction of the commission is supported by *Klever Carpet Cleaners* v. *Chicago*, 323 Ill. 368, 154 N. E. 131, 49 A. L. R. 103.

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Health Regulations Not a Home Rule Function.—HOME RULE AND CIVIL SERVICE—HEALTH OFFICERS IN OHIO HELD TO BE PERFORMING A STATE AND NOT A MUNICIPAL FUNCTION.—A recently reported decision of the Ohio Court of Appeals, Stark County, *Board of Health of Canton* v. *State*, 178 N. E. 215, holds that under the Hughes Act (Sec. 1261–16 General Code) creating district boards of health, the legislature withdrew from the municipalities of the state any independent power over the exercise of the func-

tions of board of health. The Supreme Court of Ohio had held in *Cuyahoga Heights* v. *Zangerle*, 103 Ohio St. 566, 134 N. E. 686, that the state legislature had power to enact general laws for safeguarding health, but the present decision goes further in holding that health is no longer to be deemed within the scope of municipal home rule functions.

The action was by mandamus to compel the board of health of the city to certify to the auditor that the relator was entitled to be paid certain moneys alleged to be due him as an employee of the board. As such employee under civil service he had been dismissed by the board after due notice and hearing, but upon review by the civil service commission, the charges were found to be unfounded. The defense was that the relator was not an employee of the city and therefore not governed by the civil service rules.

In holding that the relator was an employee not of the city but of the board of health of the city of Canton, a distinct political subdivision of the state, the court finds that the civil service commission had no jurisdiction over him and that the board had full power to discharge him. The court holds very properly that the fact that the city had for many years regarded the local board of health as a department of the city government or that it is responsible for the payment of the board's employees does not affect this conclusion.

The provisions of the Chapter E of the General Code of Ohio states that the civil service includes "all offices and positions of trust and employment in the service of the state and the counties, cities and city school districts thereof." In designating school districts, a member of a class of public agencies neither strictly state or municipal is expressly included, and by the application of the familiar rule of statutory construction" *expressio unius est exclusio alterius*" the court concludes that all such local agencies are excluded from the purview of the statute. This may not have been the design of the framers of the statute, but is clearly the effect of the words they have used.

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Contractor's Bonds.—Liability of Surety to Laborers and Materialmen.—Alabama as well as several other of our more progressive states requires that the claims of laborers and materialmen may be enforced directly against the surety upon the statutory bond required to be given by all contractors on public works. The Alabama statute passed in 1927 provides that "any person supplying the contractor with labor, materials, food stuffs and supplies may bring an action on such bond in his own name within six months after the final completion of the work contracted for" (Code 1928, Act 8A, §6836).

In *Pettus* v. *State*, 137 So. 466, the defendant Pettus set up the plea that previous to entering into the contract upon which the labor was furnished, he had advertised in the press, and given notice to the claimant that he would not be responsible for the debts incurred by any of his subcontractors on the contract in question. The Court of Appeals of Alabama in sustaining a demurrer to this plea says:

> The bond is statutory, and is required for the protection of all parties connecting themselves therewith, and we know of no law, and appellant has cited us to none, which would authorize a discharge or modification of the legal obligations of the bond, by a giving of notice, either by publication or actually, by the principal contractor that he would not be liable for debts incurred by his subcontractors in connection with the work embraced in the contract, and for which he had made his bond.

For another recent decision applying a similar statute requiring a bond that that may be enforced directly by laborers or materialmen, see *Smith* v. *McKnight*, 4 Pac. (2d) 305, in which the District Court of Appeal, Second District, Division 1, of California holds that, as the remedy is entirely statutory, the failure of the claimant to comply with the provision requiring a notice to be filed with the city official in charge of the work will preclude recovery against the surety.

In New York where the question of whether a materialman may recover on such a bond in an action in equity is now before the courts (see note in January issue, p. 39), Judge Lewis of the Municipal Court of the City of New York in *Knickerbocker State Corporation* v. *Union Indemnity Co.*, 253 N. Y. S. 514, has recently held that the surety company will be liable in a direct action if the bond contains a clause agreeing that the "undertaking shall be for the benefit of any materialman or laborer having a just claim as well as for the obligee herein." Whether this decision is correct will have to await the further statement of the law by the higher courts of the state, but the conclusion of the trial court finds support in the statement made by the Court of Appeals in *Fosmire* v. *National Surety Co.*, 229 N. Y. 44, where the decision was placed expressly upon the ground that the bond read in its entirety did not indicate an intention of the parties

that a materialman was to have a right to sue thereon. The court in that case, however, distinctly announced that it did not thereby decide that if the contrary intention were expressed in the bond the materialman would have a right of action.

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Expansion of Doctrine of Implied Powers.—Implied Powers—Extension of Doctrine—Power of the City of New York to Construct Bridges and Tunnels to be Financed by Bond Issues Includes Power to Charge Tolls.—The Court of Appeals of New York in *Robia Holding Corporation* v. *Walker, Mayor of New York*, (November 17, 1931) 257 N. Y. 431, 178 N. E. 747, affirmed a judgment dismissing the complaint in a taxpayer's action to restrain the city authorities from issuing some $3,000,000 of bonds for bridge and tunnel construction, to the retirement of which revenues from bridge and tunnel tolls were pledged. The specific ground of objection urged by the plaintiff was that an express grant of power was necessary to authorize a city to charge tolls for the use of the public highways. The Appellate Division had held (230 App. Div. 666) that however that question might be decided the subsequent enactment of the state legislature recognizing the action of the city amounted to a ratification and cured any defect in the original grant (see *Irvine Toll Bridge* v. *Estill County*, 210 Ky. 170, 275 S. W. 634).

The highest court of the state, however, preferred to rest its decision upon the broader ground that the local laws authorizing the construction and financing of the improvement in question were valid in their inception. The court argues that the doctrine that implied powers are restricted to those that are absolutely essential should be discarded and the rule of reasonable construction should be substituted. The decision is undoubtedly correct, but one may well question whether the court might not have reached the same conclusion by a proper application of the stricter doctrine of implied powers.

The opinion of Justice Sherman of the Appellate Division, First Department, in sustaining the power of the city clearly shows that after the local law was duly filed in the office of the secretary of state the legislature recognized its validity by enacting a law surrendering to the city certain lands necessary for the construction of the bridge (Laws of 1929, ch. 379). Later it ratified the construction and equipment of tunnels out of tolls to be collected (Laws of 1930, ch. 373) and still later declared the bridge which is to occupy the property ceded by the state to be a municipal toll bridge (Laws of 1930, ch. 437). These acts in themselves were a ratification of the acts of the city sufficient to cure any want of power in the city at the time the local law was enacted.

The Court of Appeals in its opinion by Judge Lehman points out that both by general laws and by the terms of its charter the city has the express power to build bridges and tunnels and to provide for their cost by the issue of municipal bonds and the further express power to issue corporate stock and serial bonds for "revenue producing" improvements applicable "to that class of improvements . . . the expenditure for which shall at the time it is authorized be determined by the board of estimate and apportionment to have a substantial earning power" (Charter §169). Under the latter clause it seems plain that the power is conferred upon the local authority to determine which of the improvements it is authorized to make shall be paid for from revenue. In view of the intention of the legislature as shown by these acts and by the spirit of the City Home Rule Law (Cons. Laws, ch. 76), and other earlier legislation which expressly conferred such power upon the agencies then created to carry into effect similar projects, it seems that the power in question might more fairly be termed one expressly given by statute.

This conclusion is borne out by the statement of the court itself when it says:

> Here the power conferred upon the city by its charter to construct and operate bridges and tunnels was, as we have pointed out, combined with a power to provide for the cost of bridges and tunnels so constructed by the issue of municipal bonds (sec. 47). The power to issue bonds for such improvements is so regulated by the provisions of section 169 of the Greater New York Charter that it could not be effectively exercised unless such improvements were "revenue-producing." It cannot be, and is not, disputed that, when the Legislature adopted those sections of the charter, it contemplated that tolls and charges would be imposed for the use of any bridge erected by the city out of funds provided by bond issues. It is said, however, that the Legislature may have intended that before any bonds could be issued to provide for the construction of a particular bridge, authority must be obtained from the Legislature to exact charges upon the proposed bridge. Such constructions would impute to the Legislature an intention to make its grant of authority illusory.

PUBLIC UTILITIES

EDITED BY JOHN BAUER — *Director, American Public Utilities Bureau*

Is Utility Regulation Hopeless?—A committee of the New Jersey League of Municipalities was recently appointed by its executive secretary, Sedley H. Phinney, to consider the workings of regulation in New Jersey, and to recommend such changes in the law and in administrative machinery and standards as would be deemed desirable. As might be expected, the members of the committee divided on the basic issue as to whether it is worth while to attempt to revise the system of regulation. We believe that the correspondence on this question between George L. Record and the editor of this Department has general public importance.

Mr. Record has an extraordinary background of experience to discuss the fundamental issues involved. He has come to feel complete disillusionment as to his earlier point of view and faith. Based on very intimate experience and fundamental reflection, he has come to the conclusion that any system of regulation is certain to come under the control of the interests to be regulated and will finally serve to protect privilege instead of the public interest. Mr. Record's letter was in response to our general position, especially as presented before the Public Ownership Conference at Los Angeles in September.

MR. RECORD'S LETTER

Dear Mr. Bauer:

I have your letter of November 24th with a copy of your speech at the Los Angeles Public Ownership Conference.[1] By the same mail I have received a letter from Mr. Phinney with a copy of the speech by Frank Sommer, and a summary of some seventeen recommendations for changes in the Public Utility Law. I have read with great interest your Los Angeles speech.

It seems to me that your argument in support of your position that public utility regulation is preferable to public ownership as a remedy, or is a necessary method because of the impossibility of establishing public ownership, is as strong an argument as can be made on that side. What disturbs me is that in such an argument you completely omit the fundamental difficulty with regulation, which is that the profits of monopoly are so enormous that the monopolies are compelled to control legislative and judicial action, and do absolutely control it. Every person that I have ever met, who actually has taken part in active politics, does not deny that these monopolies actually control the organization of the dominant party in each important state, and also control the organization of the minority party to the extent of preventing that party from making an issue out of the subserviency of the dominant party to these monopolies.

You say, for example, that without any more legislation better results can be accomplished if the commissions are properly constituted and are adequately supported with technical assistance. This is the exact point which I am trying to have you meet. How are you going to get more vigorous commissions? The whole history of regulation is that the commissions tend more and more to fall into the hands of politicians representing the monopolies, and where an occasional commission, owing to some special election is installed and actually tries to do something, the companies run off to the federal courts and endless litigation ensues. For example, at

[1] For an account of the Los Angeles talk, see November issue of the REVIEW.—ED.

the moment, owing to Governor Roosevelt's election, Milo R. Maltbie is the dominating force on your New York commission. No better individual, or more courageous or more public spirited commissioner, has ever appeared in America. If he attempts to reduce rates slightly, the companies may yield, because the improvements in manufacturing their products have so cheapened production that they can well afford to make the reduction and still continue their exorbitant profits. But if he attempts to reduce rates to a fair return on actual cost, the companies will go off to the federal courts and his decision will be set aside. In any event, the litigation will continue until Governor Roosevelt is replaced by a reactionary Republican or Democratic successor, and Maltbie will disappear as our effective commissioners in New Jersey have disappeared. This is the point you entirely ignore, as does every other advocate of continuing regulation as a remedy.

Governor Pinchot in his first term, as I remarked the other day, had the appointment of an effective public utility commission, and the power interests got his appointees away from him before the end of his term, and now although again elected Governor he is unable to reform this commission.

I wish you could be gotten to see that this fundamental truth, which so far as I know nobody denies, is fatal to your whole position.

The same point applies to your public defender suggestion. If the monopolies are able to control the commission, why can they not control the public defender?

The next point in which it seems to me you are fundamentally mistaken is the assumption that you can establish actual cost as the yardstick for determining fair value. You are absolutely right in declaring that this is the only yardstick. Brandeis says that "prudent investment" is the yardstick, but the word "prudent" destroys the yardstick and opens the door to every kind of evasion. Actual cost is the only yardstick. You say that this can be established by regulation. I challenge the authority for that statement. All of the decisions of the courts are to the effect that no single yardstick can be set up by the legislature, and that no legislation, state or national, can take away from the courts the power to determine in each individual case whether the commission has taken into account and given proper weight to all the different elements which go to make up value as defined in *Smythe* vs. *Ames*. In the latest decision of the court in the O'Fallon case, the Interstate Commerce Commission actually made a test case. They found the valuation of this railroad upon the basis of actual cost, and the Supreme Court set it aside with the flat declaration that actual cost could not be made the yardstick. The state and United States courts have repeatedly applied this principle in other cases. In the face of these decisions I cannot understand how you can claim that this yardstick can be set up by Congress or any legislature.[1]

The language of your general statement shows how hopeless is your point. You say that "any reasonable program that is warranted by public purposes can be instituted by the exercise of state sovereignty, provided that the investors are treated fairly and that the legislation is really necessary to safeguard and promote public interest in the basic industry." In that one statement you give away your case for regulation. The question what is or what is not reasonable, or what program is warranted by public purposes, whether the investors are treated fairly, or whether the legislation is really necessary to safeguard and promote the public interest — all these questions cannot be taken away from the courts by legislation if the monopolies choose to litigate.

The position which you must establish is this: A legislative statute prescribing that actual cost shall be the sole yardstick in determining value upon which to fix a fair rate, can be enforced in our state and federal courts as constitutional exercise of legislative power. I challenge you to get me the legal opinion of any reputable lawyer in America who will undertake to defend that position by citations from judicial decisions.[2] Your general statement, therefore, it seems to me gives away the whole case, and if you are wrong, then as you say, we are forced to consider regulation as a failure.

If regulation is a failure, it is idle to consider what are the difficulties in public ownership. The argument that the only true remedy for a great wrong cannot be accomplished in a genera-

[1] For a detailed analysis supporting the view that a fixed yardstick can be established by legislation, see John Bauer, "The fixed rate base—why is it constitutional?" Public Utilities Fortnightly, July 10, 1930; also, "New York survey of public utility regulation," American Economic Review, September, 1930.—Ed.

[2] The challenge is successful because the particular issue was never before any court. The O'Fallon case involved a substantially different situation.—Ed.

tion is beside the point. The question is, what is the remedy? If I am right in my position, then all of you people who continue your half-hearted and reluctant defense of regulation are holding back the proper education of the public, which must precede the adoption of the true remedy, whether it take one generation or several.

It is particularly unfortunate that influential men like you, Governor Pinchot and Governor Roosevelt, are treating regulation as though it could be made effective at this time, when it begins to look as if the next presidential election, less than a year away, may turn upon the point of the control of our politics by the power interests. A single campaign by a man of the prominence of Governor Roosevelt or Governor Pinchot upon the issue that regulation has failed completely, and that public ownership is the only remedy, would have the prospect of an immediate ratification by the public, instead of requiring a generation of agitation.

There is another point which is overlooked by the advocates of regulation. If it were possible to establish real regulation, that is a return of six or seven per cent upon actual cost, with the elimination of exorbitant salaries and padded special expenses which conceal the cost of influencing legislation, the result would be the elimination of the privilege of charging the excessive rates which are necessary to afford a return upon watered stock and to control legislation, in which event the high officials and banking houses which control these concerns would have no incentive to continue to control. No utility magnate would be content with a reasonable salary, and no banking house is interested in a six per cent return. They would promptly turn over these utilities to the public at an excessive price, exactly as the Belmonts did with the Cape Cod Canal when it proved an unprofitable investment.

The agitation needs to be put upon another basis than reducing rates. It must be put upon the basis that monopoly cannot be and never has been successfully regulated; that, as Lincoln said of slavery, it cannot be confined or controlled or regulated. It either has to be abolished or it will extend all over the country and to every industry which is capable of monopolization, and rule the country. . . .

MR. BAUER'S ANSWER

Dear Mr. Record:

I find myself in substantial agreement with you as to the facts and problems involved in dealing with public utilities from the public standpoint. I have been battling with myself on these matters for many years just as you have, together with others who are sincerely interested in sound public policy. . . . Every municipality, every state, and the federal government should be free to institute public ownership and operation according to the conditions that exist and within the natural limitations of the industries.

I have had occasion to investigate in considerable detail the Ontario Hydro-Electric system. I have been greatly impressed by the wisdom that our Canadian brothers have exercised in dealing with the electric industry. They had the good fortune, however, in starting when the industry was young before private interests had become deeply intrenched. I should like to see parallel organizations in the United States. However, there is here the fundamental difference in that the private interests are deeply rooted, and it would be extremely difficult and costly to dislodge them and to replace them with publicly organized systems.

It is in consideration of these conditions that I find myself unable to go fully along with you. While it is true that, as you say, if a few men like Governor Roosevelt and Governor Pinchot were to wage their popular campaigns exclusively on the public ownership platform, public opinion would be molded rapidly and a general program might be realized in comparatively few years, there are not many Roosevelts or Pinchots, and, at best, it would probably require more time than you visualize. In the meanwhile we shall be forced to continue many of the properties in the hands of private companies. Whether this be for ten years, twenty-five, or fifty, the question is, should we let them carry on as they please, or should we strive to make them follow some sort of public pattern?

As to fundamental principles advanced to control future policy, I have great reluctance to subscribe to any single formula. There are striking instances of great success of publicly owned electric plants; but that this proves public ownership generally will be equally successful is quite another matter. And particularly it does not prove that public ownership will be justified at whatever price it may be obtained under the difficulties with which its establishment would have to be carried out. I feel, therefore, that our policy of dealing with utilities should proceed at least along two lines, first,

making public ownership legally permissible; and, second, establishing definite standards and workable methods of regulation. The two, it seems to me, go together toward the same end of conserving the public interest in utilities.

You are convinced, however, that the regulatory part of the program is utterly hopeless and futile. If you are right, then is not the public ownership course likewise doomed to failure? If, because of the factors you mention, an adequate system of regulation cannot be established, what justification is there to assume that there is sufficient clear headedness as to public interest, and adequate political independence, to establish public ownership and carry it out successfully? If we have enough public initiative to institute successfully public ownership and operation, notwithstanding the tremendous obstacles, why cannot the same forces bring about a revision of standards and methods of regulation in the public interest?

If we are so hamstrung by private interests in our dealing with efforts at regulation, it seems to me that the same private interests would be even more concerned to prevent success of public ownership. Progress, in any case, depends upon a considerable measure of public intelligence, integrity, initiative and independence. If these essential qualities cannot be counted upon for effective regulation, I should be reluctant to rely upon them in promoting public ownership and operation.

We have passed through an era of very low ebb of public spirit. It contrasts sharply with the years from 1900 up to the time of the war. My personal feeling is that we are now entering into a new era when the public interest will have much greater consideration than it has received during the past ten years. If so, I think we can make progress both in the field of public ownership and of regulation. If not, then I doubt whether the efforts in either direction will be very fruitful as to satisfactory results. . . .

MR. RECORD'S REPLY

Dear Mr. Bauer:

Answering your question that if I am right in my contention that an adequate system of regulation cannot be established, what justification is there to assume that there is sufficient clear headedness as to public interest, and adequate political independence to establish public ownership and carry it out successfully? If we have enough public initiative to institute successfully public ownership and operation, notwithstanding the tremendous obstacles, why cannot the same forces bring about a revision of standards and methods of regulation in the public interest?

This question raises the vital point of the whole subject, and one has to have some experience in practical politics, or familiarity with political history, to see clearly the answer. The answer is two fold.

First—There is no example in human history of the successful regulation of privilege. This was the essential point of Lincoln's attack upon slavery.

Second—When you come to organize public opinion the simpler the problem the easier it is to secure public support. The abolition of slavery was enormously difficult. It is hard to get the present generation to realize how utterly hopeless the abolition of slavery appeared, even as late as 1860. But if the Republican party had been organized to mitigate and reduce the evils of slavery by regulation; if the proposition submitted to the public had been to interest them in laws compelling the slave holders to treat their slaves better, to shorten their hours, to enlarge their cabins and to give them an extra suit of clothes a year, it would have been politically impossible to enlist public opinion, because the vital moral principle that slavery was wrong, and because it was privilege, and because it threatened to extend all over the country, was omitted.

The public have completely lost interest in any attempt to make regulation more effective. This is because regulation has completely failed to realize the hopes of all of us who helped to establish the policy in this country. What we said would happen has not happened, and the advocates of regulation are hopelessly discredited. They have lost public confidence.

On the other hand, Lincoln's principle that privilege is inconsistent with a democracy, that it cannot be regulated, limited or controlled, and that it is immoral in that it enables a few to absorb without service or return the earnings of the many, is an ideal which appeals to the moral sense of the average man. . . .

MR. BAUER'S REJOINDER

The problem of slavery seventy years ago is hardly analogous to the utility problem of today. But, if it were, it appears rather to illustrate the extreme difficulty of attempting to deal with deeply intrenched institutions by a simple declaration of ethical principle.

MUNICIPAL ACTIVITIES ABROAD

EDITED BY ROWLAND A. EGGER · *Virginia Bureau of Public Administration*

The Technician in English Administration.—The British Science Guild, which was founded in 1905 by Sir Norman Lockyer for the purpose of promoting the application of scientific method and knowledge to social problems and public affairs has published recently one of the most interesting treatises extant on the technician and his place in the public service compared with that in industry.[1]

While the document is concerned almost entirely with the technical officers of the civil service, it sheds considerable light on the problem of recruitment and the personnel problem generally, current tendencies in the discussion of which were reviewed in this section for November last. The report is particularly to be commended because it proceeds with an extremely realistic attitude toward the peculiar difficulties countermanding scientific procedure in public administration. This is to say that the accomplishment of the purposes of public administration are contingent upon an exact and complete knowledge of its problems, which is in turn governed by adequate knowledge of financial restrictions and the various ramifications of any alterations in administrative method in their effect upon other questions. The investigators are convinced that this problem is vastly more complex in public administration than in industry because of the diversity of the public administration problem. It considers the crucial problem of public administration to be that of securing an efficient collaboration on the part of technicians, the financial authorities, and the administrative chiefs, the latter group not being technicians in the strictest sense.

The questions which accrue to the various governmental departments offer naturally a very great variety. It is furthermore not too much to say that a very high proportion of the affairs administered by these departments are not susceptible to resolution from an uncorrectedly administrative point of view. The transformations which have defined the present activities of departments are the result of a gradual evolution. In consequence when the necessity arises for the central administration to perform technical tasks and to obtain officials capable of administering scientifically these functions, the customary method is initially to introduce them only in a consultative capacity.

The category of experts employed in the administration is naturally then recruited from sources composed exclusively of men of sufficient age to possess practical experience as well as considerable theoretical knowledge in their professions. The Bureau of Secondary Instruction in the Ministry of Public Education offers a striking example of this method of recruitment, and at the same time of the difference which exists between the responsibility of administrative functionaries and that of the teaching staff itself, which latter are chosen purely because of their technical knowledge. This distinction between the functions was produced very gradually. In 1904 the minister named, in addition to local inspectors, an inspector-in-chief and four inspectors resident at Whitehall, the ages of whom at the time of their nomination, which is an interesting commentary, varied from thirty-six to forty-eight years. For a period of six years

[1] *Report on the Scientific and Professional Staff in the Public Services and in Industry*, London, 1931.

thereafter the administrative functionaries gave their own solution to all the questions which arose, many of which concerned instruction more than administration, entirely without the advice of the inspectors, except when such advice was sought at the option of the administrative officers.

In 1910 the chief of the department procured a complete reform in procedure by the creation for each service of a consultative committee composed of the inspectors and the director of special inquiries, which was charged with advising upon all non-administrative affairs of public instruction which were brought to light by the inspectors or from any other source.

For delineating further this differentiation in functions the reports on the inspection of schools controlled by the administrative functionaries [1] were sent to the directors of these schools as emanating from the inspectors and not from the central department. The intention of the chief of the department was to apply this differentiation equally in the division of primary inspection and of technical and trade instruction, but alterations in governmental policy as well as other interrupting factors have prevented the completion of the reorganization.

The report treats also of the necessity for expanding the scope of authority of those public employees classified as experts. In England as in the United States public administration has responded to the demand for increased public services, many of which are of a highly technical character. Due to the generally more centralized structure of English government it is probably accurate to say that the central administration has expanded more fully in the provision of services requiring technical training and ability than has its counterpart, the state administration, in the United States. Hence the problem of the technical service is of relatively greater importance in the British central administration than in our own. However, also as in the United States, the multiplication of public services has not always been attended by the provision of a competent technical staff to insure their adequate and economical administration. At the same time the necessity for technical knowledge has forced the expert, even when occupying a statutory position of relatively small authority, actually to assume the major portion of the responsibility for conducting his service. Under these circumstances the expert attached to a department of the state ceases to be only a counselor. Either formally or informally he must have in large degree control of the subordinate personnel, and he must even decide questions of great importance involving the relations of the service with the public. His position is likewise rendered of more significance by virtue of the fact that large sums must be expended under his supervision and upon his responsibility. The simple fact seems to be that the authority of an official is probably determined to a greater extent by the amount of the budget which he is responsible for spending than by statutes and decrees, no matter how liberal.

In recent years the development outlined above has been remarkably accentuated until at the present time a really large number of technicians and scholars are occupied in various sorts of scientific research in administration, particularly in the departments of national defense and the ministry of agriculture and fisheries. This has resulted in a considerable increase in the number of expert functionaries, of which a large proportion occupy naturally subordinate positions. From 1914 to 1924 the number of experts in public service increased 36 per cent, and the programs as outlined by recent budgets indicate a continued tendency in this direction. At the same time a tendency is noticeable to appoint to high places in the service people of proven technical capacity who have indicated proficiency in the less specialized functions of general administration.

The working organization of the central administration differs more between departments than does that of the local authorities. In a number of services the technical directors occupy a position of only relatively small importance in the organization of their department and as a result are completely subordinate to the secretary or the permanent under secretary of the administration and his assistants. But while theoretically the ministers work through their immediate subordinates, it is not unusual to find a technical expert in constant and direct communication with the representative of the government, who ostensibly heads the service.

The report then passes to an examination of methods and practices which affect the liaison between the departmental heads, the technicians, the financial officers, etc. It is pointed out that the affairs of the state demand a relatively highly centralized system which necessitates a volumi-

[1] For a very complete discussion of these institutions see: H. E. Smith, *Municipal and Local Government Law (England)*, Chapter XI.

nous correspondence between the secretariat and the technical service and other divisions of the same ministry. In certain departments only a small proportion of this correspondence goes directly to the chief of the service, the rest passing through the hands of functionaries in the secretariat, who extract therefrom the essential information for the benefit of the minister. In other words, in the normal course of affairs the technical expert does not on his own motion have complete access to, or direct communication with, the minister, although, as noted above, in special instances this result is accomplished by the constancy with which technical advice is sought by political officers and departmental chiefs. When access is not easy and direct, the outcome redounds not only to the detriment of the technician's status but deprives the superior authority of constant advice upon points concerning which he continually must formulate policies. He must also frequently act upon information which is largely meaningless without the intermediary service of expert interpretation.

It has been sought in a number of instances to remedy this condition without organic rearrangement by occasional committees of inquiry, the work of which is done by trained technicians. This is not satisfactory for the reason that it is not continuing and constant. The method is also very wasteful.

In the matter of recruitment of technicians the same criticism may be made of extant methods as that which appeared in the inquiries of the Royal Commission on Local Government almost a decade ago. As Dr. Robson pointed out at the meeting of the British Institute of Public Administration last summer, the professional associations are seeking very largely to secure a monopoly of appointments to municipal posts, and there is no very clear guarantee that the qualifications which are imposed for membership in the professional organizations bear any real relation to the needs of municipal administration but are primarily designed to insure efficiency in the private practice of the various professions. He further comments on the report of the British Science Guild in the following terms:

If the report of the British Science Guild declares that technical qualifications are required of superior functionaries, it is not less true that the local authorities have not been able to assure an adequate organization of their staff because the technical qualifications (imposed by the professional organizations) are frequently not *en rapport* with the needs of the service which their representatives direct.

The report is quite definite in its demand for a complete modernization of the administrative system of the public services. The most pressing requirement of the present time in the civil service is a type of administrative organization which is to the highest possible degree analogous to that of modern industrial organization, in which the minister is personally cognizant of the authority and functions of his own office as the supreme chief of the services, administrative, financial, and technical, which compose his ministry. In other words the system of collegial administration common in the English central government must be replaced by a bureaucratic organization—by an actual hierarchy. In a letter published in the London *Times* of October 3, 1929, M. F. Kelloway, former director general of the Post Office, declared that bureaucratic administration in this department had produced remarkably successful results over a considerable period of his administration. After the South African War the British War Office was also partially reorganized along bureaucratic lines which included an order defining the authority of the various service chiefs, as well as the institution of such a modern device as executive control reinforced by an agency of inspection and supervision.

As a general preliminary to any organizational reform the report points out the necessity for a thorough classification of positions and a system of uniform designation. The report is frankly of the opinion that technical agents and directors of research should have their positions founded upon a statute equally definite in its mandate as that under which the administrative officers and others concerned in the operation of the services labor.

It should be noted at the same time that the report of the British Science Guild does not solve the problem of the technical training of the administrative chief. It brings us no nearer the answer to the question, "What is an expert in public administration?"

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Trade Unionism of Officials in Jugoslavia.—Due to extraordinary developments in the professional organization of governmental officials and to the extreme pressure which they have been able to bring to bear both from the standpoint of collective bargaining and influencing legislation in the several European states within the last ten years, the government of Jugoslavia

has seen fit to supplement its general statute prescribing the classification and regulating the conduct of personnel selection and regulation in the national government by the following prescriptions governing professional organization of state employees: [1]

The agents of the state can form no professional association without the permission of the minister under whose jurisdiction they are employed.

They can organize such associations and be received as members only among agents of the same branch of the service and among the same class of agents.

Pensioned agents can become members of unions but they cannot become members of the committees of such unions.

Officers dishonorably discharged or who leave the service of the state of their own will cannot remain members of the association.

Agents who change the branch of the service or the group with which they have become affiliated cannot remain members.

This does not apply to agents who are employed by the ministers for the relief of their administration. However, they cannot, in such case, assume any classified office.

There can be only one organization within the state for the same branch of the service or the same class of agents.

The activity of members of the syndicate is subject to regulations designed to preserve the reputation and dignity of officers of the state, and to all other disciplinary measures in so far as the activity of the organization of its members touches the conditions of service or state of the service.

Professional unions of agents of the state are under the supervision of the minister in charge of the service, to whom they are required to submit annual reports concerning their activities.

Any group action of several organizations must be specially approved by the minister in charge.

Disciplinary action is brought against any agent of the state who fails to observe these regulations.

If there is agitation in the union in violation of the above regulations, their board of administration or directorate is dissolved by the minister in charge with the approval of the Minister of the Interior. In its place a commissioner is named who will have the right to exercise all the functions of the board of administration or directorate until such time as the activities of the organization shall have been brought into complete harmony with the legal regulations. In serious cases, organizations in which there is agitation in contravention of the preceding regulations can be dissolved by the decision of the minister in charge.

The foregoing regulations do not apply to employee coöperatives nor to associations of coöperatives.

Within three months after this law goes into effect all existing organizations must comply with the regulations and submit a report to the minister in charge. All societies which have not complied with these regulations will be dissolved in the three following months.

Hazel M. Skelhorne.
Secretary, Bureau of Public Administration,
University of Virginia.

[1] This is summarized from the *Informations Sociales*, of the International Labor Bureau, of August 3, 1931.

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A Correction from Whitehall.—Mr. G. Montagu Harris, of the British Ministry of Health, has very kindly corrected certain statements attributed to him in the report of the summer conference of the British Institute of Public Administration, appearing in this section for November last.

It was stated that Mr. Harris indicated skepticism regarding the results of research in public administration in the United States. It appears that what Mr. Harris actually said, as reported by the September *Monthly Notes* of the Institute of Public Administration, was this:

> Could the U. S. A. show evidence of actual benefit to the community?

It seems that what the editor of this department took, in view of the context, to be perfectly exquisite sarcasm is simply the habitual British way of phrasing a question.

Concerning the remarks of Mr. Harris relating to local government and public administration journals in the United States, the error is due to the following sentence in the Institute Notes:

> He went on to draw attention to the difference between service journals in the United States and ours which printed no articles on the theory of public administration.

Mr. Harris states he was talking about English and German journals.

Mr. Harris went on to say that he should not like to be considered as having belittled in any way the work of the National Municipal League.

NOTES AND EVENTS

P. R. in Hamilton.—In Hamilton, an industrial town of 50,000 twenty-five miles north of Cincinnati which also has the manager plan and P. R., the non-political "charter" group captured five council places out of seven at the last election as it did two years ago. The political machine which formerly controlled the city lost its majority in council at the first P. R. election four years ago and after two years of the new régime was unable even to muster the seventh of the votes which under P. R. would have given it one place out of seven. This year it did not even nominate candidates. The two members elected without the Charter group's endorsement were former councilmen reëlected as independents. In four years City Manager Price has reduced electric rates four times and gas rates once in addition to paying off a $150,000 debt against the municipal gas distributing system.

GEORGE H. HALLETT, JR.

✻

Boston Agitates for Re-assessment of Real Estate.—One of the major problems facing Boston in 1932 is that of the assessment of real estate for taxation. A growing protest against the inequality caused by the present antiquated system has become so great that only installation of a new system and complete re-valuation seem sufficiently drastic to cope with the situation.

The decline of real estate values particularly in the downtown region, increases in city expenditures and tax rates, the current depression, and the repression of tax appeals by the Curley administration in 1930, have accentuated the defects in the present system and have further aroused the taxpaying public against the present valuations.

A simple, effective, and inexpensive method for tax appeals has been set up in the formation of the State Board of Tax Appeals. Now that court delays and expenses are no longer necessary in the appeals, the matter is brought to a climax. Further delay in equalizing assessments may result in a general rush of taxpayers to the appeals board.

Re-assessment has been offered as the solution of the problem at different times by the Boston Real Estate Exchange, the Boston Chamber of Commerce, the Finance Commission, and the Good Government Association. All other methods of staving off appeals having failed, the administration has finally promised a complete revaluation.

Much of the success or failure of future city financing depends on the sincerity, speed, and thoroughness with which that promise is fulfilled.

✻

Mayor Coxey's Plan for a Municipal Currency.—"General" Jacob S. Coxey, of Coxey's Army fame, became mayor of Massillon, Ohio, January 1. The seventy-seven-year-old mayor takes the helm with many financial problems facing the city. The 1932 budget will leave a deficit of $83,000 even after a 20 per cent cut in salaries and the assessment of street lighting against the property owner according to the foot frontage of his property. Otherwise the deficit would have been about $149,000. The city also has unpaid water and light bills to the amount of $78,763.77; bills that have accumulated in the past few years.

Nevertheless, "General" Coxey stepped into office determined to carry out the platform of his "poor man's" campaign which gave him one of the largest majorities in the history of Massillon politics. The main plank of his platform was the issuance of $200,000 worth of twenty-five-year bonds, bearing one-tenth of one per cent interest, in denominations of twenty-five cents to ten dollars to pay for public improvements and furnish employment. These bonds are to be used as a medium of exchange in local stores and

the city treasury is to act as the clearing house, redeeming any demands made against the script. The other important plank in his platform was municipal ownership of the local utilities. At the present time the Ohio Water Service Company furnishes the city with water.

Now that Coxey is in office there are some serious obstacles to be overcome before he can carry out his plans. In the first place there is considerable doubt as to the legality of bonds of the character he proposes. If the legality of the bonds is granted, it is somewhat doubtful if the city council will pass the necessary legislation to issue them. This was the opinion of the chairman of the finance committee of the old council who will be a member of the new council. Furthermore, should the council pass the ordinance for the issuance of the bonds, it would be necessary to submit the proposition to a vote of the people. And, although the people gave Coxey a large majority, there is some question whether they would support the bond issue. It is maintained by some that he was elected by a protest vote and not by those who really believed in his bond program.

It goes without saying that the bankers of Massillon are opposed to the program and are of the opinion that if it should be adopted it would fail in operation. The banks would not and could not handle the bonds, and it is difficult to see how the city treasury would be able to meet all demands made against the script and thus keep it in circulation.

The business man and the common man on the street have varying opinions. The few business men interviewed are rather skeptical about the proposition. Some of the people feel that Coxey "knows what he is talking about." But the consensus of opinion as Coxey takes office is that very likely nothing will come of the "General's" main campaign plank. Though in office after forty years of effort in behalf of his dream of cheap money he still has many obstacles to surmount before he can put his plan into operation. The next few months will determine whether he can make his dream a reality.

Roy V. Sherman.

✻

Unrest in County Government in Virginia.—The Virginia Commission on County Government has made a notable report.[1]

[1] Report of the Commission on County Government to the General Assembly of Virginia, December, 1931. Senate Document No. 3. Richmond. 112 pp.

A hard-boiled Virginia legislator, who keeps his ear to the lobbies as well as to the ground, remarked that it would probably have more influence outside of the state of Virginia than in it. Favoring every word in the report, he saw it as a counsel of perfection, doomed to defeat, or at the best modification, when the powerful lobby of the county officials once launched into action.

The comment might be regarded as the finest tribute that could have been paid the commission on county government which spent weary months in drafting a clear-cut document, for it demonstrated beyond question that the commission had compromised little within its own ranks and had put principle above expediency. This is all the more remarkable when it is considered that the commission, while headed by Dean Robert H. Tucker of Washington and Lee University, was controlled by a majority of "practical" men, two of whom are at present active county officials.

Virginia is unique in the completeness with which its county officials are organized into professional associations. It is freely admitted in Richmond that any legislation which the organizations of county clerks and county treasurers oppose vigorously has little chance of passage. Hardy and scarce is the legislator who can unflinchingly face an avalanche of telegrams sent simultaneously from all parts of the state from influential sources. This time, however, the politician who forecasts defeat of the measures advocated by the commission may be forgetting the pressure which will be put upon the 1932 legislature to reduce taxes. Cutting costs of government is one way in which this may be done, and one way of cutting costs is to improve the efficiency with which the governmental services are administered. All the recommendations of the report lean toward this latter aim, for the commission frankly admits that the chance to maintain a strong local governmental organization in line with Virginia tradition depends upon increasing the efficiency of the county governments.

The commission proposes two optional forms of county government: (1) A county executive form, which is sufficiently flexible to be adapted to the needs of any county in the state; (2) a county manager form, which is particularly recommended for counties with urban conditions and larger rural counties. Draft legislation also makes provision for the voluntary coöperation of adjoining counties or of counties and towns in the

establishment of larger areas for the administration of roads, health, welfare and other public functions. In addition, certain independent measures are designed to correct existing administrative defects and to set up types of procedure needed by every county, regardless of the particular form of its organization.

In the optional forms of government which it has set up, the commission clearly recognizes the managerial principle as essential to vigorous local administration. The county executive form is an interesting addition to the samples on the local governmental shelf, and will probably be copied in other states where a variation from the stiff framework of the manager plan is desired. This form, while recognizing the necessity for centralization of responsibility, makes a bow to local sentiment in giving the board the power to appoint upon recommendation of the executive all officers and employees in the administrative service of the county, except the county clerk and the commonwealth's attorney, who are left out for good and sufficient reasons.

Such irreconcilables as Wylie Kilpatrick, whose comprehensive book on Virginia county government must have been of great assistance to the commission, will of course criticize the report on the ground that in the optional forms recommended the commission has proivded no real alternatives, that the principle of the two plans is the same. Probably majority opinion will agree with the writer, however, that the commission, in taking a firm stand as to the necessity for a clear cut centralization of responsibility has followed the only course possible if Virginia counties are to avoid the fate of their neighbors in North Carolina. Even so, if the Virginia farmer ever finds that he can exchange his home rule for a huge slice off the present rates of taxation on land, he will probably sell out in a hurry. After all, he can't spend home rule at the village store.

HOWARD P. JONES.

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County Taxes Lowered in North Carolina.—North Carolina's new local government act establishing stricter fiscal control over localities and the assumption by the state of responsibility for county highways and the six months' school term brought material reduction in county taxes and improved financial administration in 1931, according to a statement of the state tax commission.

The 1931 tax rates for 83 counties, released by the state tax commission, show a straight average county-wide rate of $1.39 in 1930 reduced in 1931 to $1.06.

The average assessed valuation for 40 counties, for which figures are available, was reduced 4 per cent. Therefore, if the 1931 rates had been levied on 1930 values, which would show the correct actual comparison of the 1930 and 1931 rates, the present average rate would be four cents lower, or $1.02 instead of $1.06. The average reduction in rate from 1930 to 1931 based on the same valuation each year is, therefore, 37 cents for the 83 counties.

The average reduction for the six months' school is 33 cents. The reduction for current operation of the six months' term is 34 cents. The reduction for capital outlay is two cents, and the increase for school debt service is three cents.

The gross average reduction in rate for maintenance of county roads is 21 cents. That is to say, the straight average levy for county roads last year was 21 cents. This year there is no property tax for road maintenance.

The levy for the county general fund was decreased one-half of one cent. The levy for the poor was increased two cents. County debt service for general county purposes and roads shows an increase of 16 cents. There were small increases in other county levies for special purposes.

Since the 21-cent reduction in the levy for roads was offset by the 16-cent increase in the levy for debt service, and the small increase in the levies for the poor and for miscellaneous purposes, there has been no net reduction in the total county levies for purposes other than schools, except the reduction resulting from the levy this year being made on a smaller assessed valuation.

In appraising the county tax reduction effectuated by the 1931 general assembly we find a straight average reduction of 35 cents for the current operation of the six months' school term, and 21 cents for county road maintenance, an increase of three cents for school debt service, 16 cents for county debt service—making a total of a 19-cent increase in the total levy by counties for debt service, that is, for bond repayment and interest, and an increase of about three cents for miscellaneous county levies. The average net reduction in the total county-wide levy for all purposes in the 83 counties, including the increases for debt service, remains at 33 cents on

the 1931 valuation. It would be 38 cents if the 1931 valuation had not been reduced below the 1930 valuation.

In connection with the county increase of 16 cents in the county debt service levy, the public should understand that this levy was automatically increased 9 cents last year when the counties exchanged state aid from the one cent levy on gasoline for the complete state maintenance of their roads. In other words, in 1930 the state paid on county debt service for roads the equivalent of a 9-cent county-wide levy.

There are two other important reasons why the counties increase their rates for debt service. In the first place, in 1931 they reached the peak of county debt service requirements. More county bonds matured that year than matured in 1929 or 1930. In the second place, the substantial reduction in property taxes for schools and roads effectuated by the general assembly decreased the total tax rate so materially that the counties levied in 1931 for the first time a tax rate for debt service sufficient, if collected, actually to pay all debt service requirements for the year. The counties last year levied a sufficient rate to meet their actual debt service needs. In the past they have not done this. In the past they have relied on refunding a substantial part of their bonds as they matured.

Every single county reporting shows a decrease under the rate levied in 1930, with the exception of Brunswick whose rate shows no change. This was the first year since 1920 that no county has increased its county rate.

The county-wide rate for the six months' school term shows a decrease in every county—the decrease ranging from one cent in Chowan to 80 cents in Currituck.

The decrease in the levy for roads ranged from 40 cents in Sampson all the way down to nothing in counties supporting road maintenance under the township system. Of course, the decrease in the taxpayers' burden in the counties operating under township maintenance is just as substantial as in counties operating under the county-wide system. They get their reduction in township taxes rather than in county taxes.

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North Carolina's New Department of Personnel.—The department of personnel, established in the governor's office by the 1931 general assembly, was the outgrowth of sentiment in the legislature to further increase the efficiency and economy of state government. The first step made in this direction was the passage of the act of 1925, creating the salary and wage commission, which remained in effect until supplanted by the present personnel act.

The department of personnel is under the supervision of a director of personnel, who is charged with the duty of making a survey and investigation of the needs for personal service in all state departments and bureaus and of the cost in value of the services rendered by all subordinates and employees of such departments and bureaus, and upon his findings, together with the head of the various departments, etc., to fix, determine and classify the subordinates and employees in the various departments and with the approval of the advisory budget commission fix, establish and classify a standard of salaries and wages between fixed minimums and maximums, as may be deemed necessary and equitable. In the event of a disagreement between the director of personnel and the head of any department the matters in dispute are heard by the advisory budget commission, whose finding shall be final.

It is obvious, therefore, that the scope of personnel administration to be administered by the director of personnel includes such problems as the approval and certification of employees, classification of positions, specification of duties and requirements, compensation, promotion, transfers, working conditions, regulation of leaves of absence and the approval of all payrolls of the various state departments and bureaus.

The problems thus enumerated involve an intimate knowledge of the duties and requirements of the various positions in the state service, for which the director must list qualified eligibles. In addition to this the director must necessarily keep informed on the labor market in the state, the source of fit labor, prevailing salaries and wages and the type of work done in other organizations from which the applicants come. He must know the best scientific methods of evaluating education and experience, the technique of the personal interview and the problems involved in the evaluation of character references, political recommendations and many others. He must develop and administer an economical and effective procedure that will reduce the handling of such matters to such flexible routine as can be safely carried on by his assistants. At present the director is consuming much time in collecting all of the latest information and experience possible in personnel work

and is making a detailed survey and study of all the departments of state government.

The undertakings and plans of the department are to discover or devise some effective method or system for the performance rating of employees; and, to equalize the salaries, wages and ranges of compensation of all employees in the state service on the principle that like salaries shall be paid for like duties, close coöperation in this to be maintained with the budget bureau in order that salary allowances shall fall within the departmental appropriation as budgeted.

No attempt has been made to fix an arbitrary system of promotion or of recognition and determination of merit by law. It was felt that this was an administrative matter which could be worked out more satisfactorily by the director of personnel and the various department heads. These heads hire the employees of their respective departments; the employees, however, must obtain a certificate of capacity from the personnel department.

The new act is not as broad as the old salary and wage commission act of 1925, which included state institutions as well as departments, under its regulation. The present act applies only to departments, and is in the nature of an attempt to "feel" the way towards an improvement of personnel standards. The North Carolina attitude apparently does not desire to establish a semi-political bureaucracy such as many people feel the United States civil service has become, with much inertness and "red tape" receiving the protection of statute law. It is felt that after all the political power of public employees will be exercised whether they are called civil service employees or not.

W. D. Harris.

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Louisville Property Owners Association Recommends Expenditure Decrease.—After two months of study, the Louisville Property Owners Association, on December 9, submitted to Mayor Harrison and the board of aldermen recommendations asking curtailment of city spending to the amount of $1,537,361. Membership in the association consists of men of property and influence.

In submitting its recommendations the association cited the increase in per capita expenditure by the city from $12.80 in 1913 to over $31.00 in 1930. The recommendations included: (1) no appropriation for the sinking fund in 1932, (2) 10 per cent reduction in salaries in the various departments, (3) 10 to 20 per cent decrease in materials and supplies purchased, (4) no new appropriation for reconstruction of streets in 1932, (5) lowering of street lighting costs, (6) reduction in the appropriations (salary cuts in particular) for the Children's Home, Tuberculosis Hospital, City Hospital and Municipal Auditorium, (7) economy in the administration of public schools and the University of Louisville, (8) remedy for the lag of five to six months in obtaining franchise taxes from the state tax commission, and (9) reductions in particular services such as in the office of building inspector, city engineer and park administration.

Under the association's plan the budget would be approximately $7,734,000. The bulk of the reduction would come from the failure to appropriate for the sinking fund and from the cut in salaries and materials purchased.

Mayor Harrison promptly replied to the association and promised careful consideration of the recommendations, at the same time pointing out that since 1913 there had been a 51 per cent increase in corporate area, that increased expenditure was the result of additional public service, that the city had already curtailed expenditures, that expenditures for the last three months had shown decreases of $74,000, $43,000 and $72,000 respectively as compared to 1930.

The association replied that it was disappointed "because your letter did not indicate in any way your position with respect to our suggested reduction in city taxes." To this the mayor replied that he could not make a statement as to specific details until the assessed valuation was known and until budget hearings were held. He also added, "The somewhat peremptory tone of your letter causes me to fear that what began as a coöperative movement may result in critical disagreement. I trust this will not occur."

The decrease in assessed valuation has been set at approximately $34,000,000; equivalent to about 11 cents per $100 on the tax rate. The city officials will need to reduce expenditures about $450,000 to avoid an actual increase in the tax rate. The budget was cut in 1931 due to a 10 per cent reduction in available funds and the expenditure of about $178,000 for unemployment relief. It does not seem probable that the property owners will be able to effect any considerable decrease in the tax rate.

K. P. Vinsel.

University of Louisville.

Zoning a New Hampshire Village.—Hanover, New Hampshire, the home of Dartmouth College, adopted a comprehensive zoning ordinance on May 20, 1931. This is the first New Hampshire town or village to take this progressive step. Zoning adoption in a New Hampshire town has interesting peculiarities and difficulties all its own. By the time the preliminary zoning report, the final zoning report, and the proposed zoning ordinance have been voted on and accepted by the electorate at three separate meetings held a month apart (a requirement of the New Hampshire enabling act applicable to towns and village precincts), zoning has become quite a personal affair. Where the average American municipality refers the matter of zoning to the council for adoption, in Hanover, the body of voters discuss, advise, and amend at various stages. Let it be further remembered that zoning, along with the town manager plan and the boulevard stop sign are likely to call into being an opposition characteristic of small town New England conservatism.

The agitation for some restriction appeared soon after residential sections had been spoiled by an unsightly garage, a dance hall and a miniature golf course. Support by the village commissioners and Dartmouth College administration led to the election of a zoning commission at the voters' meeting of March, 1930. The personnel of this commission consisted of a prominent architect, a member of the Political Science Department of Dartmouth College, the director of the personnel office of the college, the superintendent of grounds and buildings of the college, and the manager of the local theater. The college was slightly over represented, although this was hardly a disadvantage since the "town and gown" coöperate very closely in Hanover.

Since there are no industries in Hanover the problem was simplified. The village was divided into four districts: a very restricted residential, general residential, business, and educational. Heights, set-backs, etc., were provided.

A tentative ordinance having been drawn, the commission was faced with the major problem of selling zoning to the people. Explanations were made before local clubs and organizations. Suggestions were solicited and people were given to understand that they were participating in the drawing up of the final plan. Finally a series of public hearings were advertised, although poorly attended. Things seemed to be favorable until certain factions developed in opposition to restricting the number of roomers in any section of the town. Rumors were started that a family with over three members would be compelled to leave the restricted residential district, and that the whole plan was a restriction on personal liberty.

The commission met the opposition at the meeting called to accept the preliminary report by proposing that people living in the so-called restricted residential districts should vote in a postcard ballot for the extent of any restriction. This was carried. Over two thirds of the ballots were returned, and most of these favored placing the restriction at four lodgers. Thus the question was settled.

Encouraged by the general results of the meeting and the mail ballot, the commission felt the time had come to call in a zoning consultant. In the two meetings held with the consultant the ordinance was redrafted, although few ideas were changed.

A month after the first voters' meeting a second was held to consider acceptance of the final report. The attendance was small. Serious opposition failed to develop and the final report was adopted. Finally another meeting was held and the ordinance was adopted. This time most of the voters turned out and showed their interest.

The action of Hanover will doubtless inspire other New Hampshire towns and villages to follow in zoning. Already two towns are engaged in preliminary surveys.

Milton V. Smith.

Dartmouth College.

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Austin's Happy Situation under Manager Government.—Notwithstanding the depression that has plunged so many municipalities, as well as our state and national governments, into financial chaos, the government of Austin, Texas, closed the year 1931 in splendid condition with a cash balance in all of its funds and no debts of any character other than its bonded indebtedness, according to reports from responsible sources. All of this was accomplished with the lowest tax rate and the lowest taxable valuation of any city of comparable size in Texas.

Austin ended its last fiscal year with the best record in its history. When other cities are faced with the necessity of making drastic reductions in expenditures to cut down mounting deficits, Austin is confronted with no such problem.

This fortunate state of affairs is due to the rigid economy in vogue ever since the council-manager form of government was established in 1926. Since that year the municipality has kept safely within its revenues.

There has been no need for salary cuts in Austin, nor has it been necessary to reduce city forces and thus add to the ranks of the unemployed. On the contrary, the city assumed the burden of taking care of its unemployed citizens. Beginning December 1, a system of three crews a week, each crew consisting of sixty men, was instituted by the administration, thus giving jobs of two days a week in water line extensions and sanitary sewer work. This assistance to the unemployed by the city has been limited to citizens of Austin who have resided in the city for at least one year, and in this way 180 men were enabled to earn $6.00 for two days' work in each week, which has materially helped provide a subsistence for every able-bodied unemployed man who registered with the unemployment bureau instituted by the city.

The assessed valuation for the year 1930 (these taxes were collected during 1931) was $52,802,845, and the total tax rate, including schools, was $2.25 on each $100 of valuation, apportioned as follows: $1.00 general revenue; $.60 schools; and $.65 interest and sinking fund. There are no special levies outside these funds. A total of 92.97 per cent of the net tax roll was collected during the fiscal year without the filing of a single suit or the use of any coercive methods whatsoever.

With a bonded indebtedness of $6,279,250, bonds to the amount of $166,500 were retired and interest paid totaling $283,046.25. Besides these expenditures, the city invested out of its surplus $102,000 in its own securities.

In addition to the scheduled improvements provided for in the bond issue of $4,225,000 voted for a five-year period in 1928, an intensive development program was carried on throughout the year and financed out of the regular revenues of the city. The electric power rate was cut to provide a saving of over $55,000 to consumers; $190,000 was spent in rehabilitating the distribution system in connection with the municipally owned electric plant; $150,000 was spent on the water system; and there remains an unincumbered cash balance on hand.

This is an enormous improvement over the conditions that prevailed prior to the change from the commission form of government to the council-manager form of government. Under the old commission administration the municipality lumbered along under the burdens of a perpetual overdraft at the bank, the absence of any extensions of water mains, light lines, and sewerage system to meet the increasing demands of a growing city, and a general lack of efficiency in the conduct of all the departments.

Since the council-manager form of government took charge, the city has operated on a strictly cash basis without borrowing money or purchasing supplies on credit. All bills have been promptly paid and discounts taken advantage of, and a substantial rate of interest has been received on daily balances. The fire insurance key rate has been reduced from 28 cents to 17 cents, and a maximum good credit rate of 15 cents is being given.

Cleveland's Mayoralty Election.—The winning candidates in the Cleveland mayoralty primary of January 12 were Daniel E. Morgan, ex-city manager and a Republican, and Ray T. Miller, county prosecutor and a Democrat. Peter Witt, an ex-city councilman of national fame as a liberal, ran as an independent candidate but was defeated. The contest between Morgan and Miller will be decided in the election on February 16. It had been expected that Mr. Witt would receive heavy support in the primary from Democratic voters and would probably be Mr. Morgan's opponent in the election. However, Newton D. Baker threw his strong local influence to Miller, the regular Democratic nominee, and undoubtedly contributed to Miller's nomination. Mr. Miller is the county prosecutor who, a few days before the election on the abandonment of the manager plan, permitted the release of grand jury testimony throwing suspicions upon members of the police department with no opportunity for rebutting evidence. This improper leak from the grand jury room aroused suspicions which the denials of the chief of police could not overcome and undoubtedly was a factor in the adverse vote accorded the manager plan.